

Injustice in Planning in Europe

**- how decisions to permit major private property developments respond to
Politics, Markets and Rules
and the relevance of these practices for land conversion and related professions in
liberal democratic societies**

Thesis

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Abstract

Land is a natural resource. The way it is used is important for us all. Decisions over its use impact on all aspects of society, locally, regionally, nationally and internationally. Moreover these impacts affect future as well as present generations. Those holding power over land-use decisions, those able to direct and control its use, those able to convert its nature by changing it from one use to another and those who develop or withhold it from development, exert great influence over society. They carry heavy responsibility for shaping places, for influencing economic activity, for the quality of life and for caring for our environment at every scale and across every dimension. In so doing they should exercise a duty of care, consideration and competence to the rest of creation.

Addressing one small aspect of this task, for centuries governments have been concerned to balance a variety of interests in land and to ensure that land-use decisions were equitable between these. More particularly, since around the middle of the last century a range of instruments to 'plan' land-use and to direct its development equitably have been devised and implemented. Specifically, in what may have been varying notions of 'the public interest', they have attempted to constrain presumptions of unrestricted land-use conveyed by constitutionally held rights to land ownership, however limited.

Embodying liberal-democratic principles, the regulations which emerged provided for certainty in land and related rights to be protected by local plans. On the continent these were often given legal status along with other codified 'rules' but, from roughly the middle of this century, the United Kingdom departed from this model. Architect and Engineer planners were joined by lawyers, economists, geographers, sociologists, demographers and the like in creating a new, distinctive, 'planning' profession. Rather than planning for 'conformance', they now planned for 'performance'. What mattered was not the plan, *per se*, but development outputs and how they impacted on society. 'Equity' became a matter not for pre-determined certainty, but for the exercise of professional judgement and discretion through the control of development on a case by case basis. Such changes did not seem to occur in the mainland European countries considered here and, with the advent of the European Union, UK land and property development professionals increasingly looked to the continent for ideas and inspiration. Many admired, even longed for, the well ordered, clearly planned, certainty which they thought they saw there. But, how certain was this planning and, if it did exist, to what extent were mainland systems able to deliver 'equity' in their outputs?

Testing the hypothesis that Continental planning and development control is influenced more by politics and markets than formal 'rules', this thesis considers the proposition that decisions to permit major private developments in continental countries are neither transparent nor equitable. To do so it reviews the theory of both planning and development processes as the background for a series of 21 case study investigations of mainland application and permit decision practices. These are compared with 11 English cases, obtained from a pilot study used to test and improve the research method and objectives. Summarising each case study to illustrate discussion of the research findings, these are sieved through 4 stages of analysis as in-depth detail is converted to knowledge. With field assumptions being verified by the testimony of expert witnesses, cross case and cross country comparisons are used to validate findings. These are then consolidated to enable further analysis and theorisation to address various of the needs for an improved understanding of mainland practices and other questions raised in the Introduction. The thesis concludes that European Development Control practices are converging, but at the expense of the *due process* and protections theoretically embodied within regulatory systems. Seized upon by contemporary politicians to further the aims of economic competition, it suggests that these 'rules' are now managed with an inherent disregard for the principles of *due process*. This obfuscates both practices and intent, overrides concerns for justice, fairness and impartiality at the level of local, historic interests in place, and threatens wider problems for society. Relating these conclusions to the current literature, emergent theory is compared with the research results and several potential areas for further research identified which might help clarify planning philosophy, principles, professionalism and practices for service in the 21st Century.

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A satire against Reason and Mankind

*Were I (who to my cost already am
One of those strange, prodigious creatures, man)
A spirit free to choose, for my own share,
What case of flesh and blood I pleased to wear,
I'd be a dog, a monkey, or a bear,
Or anything but that vain animal
Who is so proud of being rational.*

*Be judge yourself, I'll bring it to the test:
Which is the basest creature, man or beast?
For hunger or for love they fight and tear,
Whilst wretched man is still in arms for fear.
Base fear, the source whence his best passions came:
His boasted honour, and his dear-bought fame.*

*And honesty's against all common sense;
Men must be knaves, 'tis in their own defence.
Mankind's dishonest; if you think it fair
Amongst known cheats to play upon the square,
You'll be undone.
Nor can weak truth your reputation save:
The knaves will all agree to call you knave.*

*Thus, sir, you see what human nature craves:
Most men are cowards, all men should be knaves.
The difference lies, as far as I can see,
Not in the thing itself, but in the degree,
And all the subject matter of debate
Is only: Who's a knave of the first rate?*

*All this with indignation have I hurled
At the pretending part of this proud world,
Who, swollen with selfish vanity, devise
False freedoms, holy chests, and formal lies
Over their fellow slaves to tyrannise.
But if in Court so just a man there be
(In Court a just man, yet unknown to me)
Who does his needful flattery direct
Not to oppose and ruin, but protect;
If so upright a statesman you can find,
Whose passions bend to his unbiased mind,
Who does his arts and policies apply
To raise his country, not his family,
Nor, whilst his pride owned avarice withstands,
Receive close bribes through friend's corrupted hands -*

*But a meek, humble man of honest sense,
Who, preaching peace, does practice continence;
Whose pious life's a proof he does believe
Mysterious truths, which no man can conceive.
If such there be, yet grant me this at least;
Man differs more from man, than man from beast.*

*(John Wilmot, Earl of Rochester, 1648-1680)
Authors' emphasis*

Contents

| | |
|---|-----------|
| Abstract | i |
| Acknowledgements | ii |
| A satire against Reason and Mankind | iv |
| Contents | v |
| List of Figures | xi |
| List of Tables | xiii |
| List of Charts | xiii |
| List of Diagrams | xiv |
| List of Illustrations | xiv |
| Appendixes | xv |
| Glossary of terms used | xvi |
| General and/or English case terms | xvi |
| Dutch terms | xxii |
| German terms | xxii |
| Italian terms | xxii |
| French Terms | xxiv |
| Institutionalised obfuscation of decision making | xxv |
| 1 INTRODUCTION - A BACKGROUND TO STUDY - | 1 |
| 1.1 THE NEED FOR RESEARCH | 1 |
| 1.2 POLITICS AND PLANNING | 3 |
| 1.3 THE CONCEPT OF 'EQUITY' | 5 |
| 1.4 'COMPETITION' AND PLANNING | 6 |
| 1.5 CHALLENGING 'THEORY' | 7 |
| 1.6 A HYPOTHESIS | 8 |
| 1.7 FOCUSING THE RESEARCH TASK | 9 |
| 1.7.1 <i>Change, choice and decisions</i> | 9 |
| 1.8 ORGANISATION | 10 |
| 1.9 CAVEATS | 12 |
| 2 DEVELOPMENT, PLANNING AND REGULATION - A REVIEW - | 13 |
| 2.1 THE DYNAMICS OF PLANNING SYSTEMS | 13 |
| 2.2 THE DEVELOPMENT PROCESS | 14 |
| 2.2.1 <i>Sequence in development</i> | 16 |
| 2.2.2 <i>The dynamics of development</i> | 17 |
| 2.2.3 <i>Interests in Development</i> | 17 |
| 2.2.4 <i>The development application</i> | 18 |
| 2.3 THE HISTORICAL NATURE OF PLANNING | 19 |
| 2.3.1 <i>Planning as mediation and bargaining</i> | 20 |
| 2.3.2 <i>New Principles in planning</i> | 21 |
| 2.3.3 <i>English -v- Continental approach</i> | 21 |
| 2.4 PLANNING AND THE 'DEVELOPMENT GAME' | 23 |
| 2.4.1 <i>The purpose of planning and regulation systems</i> | 24 |
| 2.4.2 <i>Issues, Interests and 'rules'</i> | 25 |
| i) Private interests and 'rules' | 26 |
| ii) Public Interests addressed by planning 'rules' | 27 |
| iii) Power, intervention and 'rules' | 28 |
| 2.4.3 <i>Actors, Agencies and 'rules'</i> | 29 |
| 2.4.4 <i>Politics, markets and 'rules'</i> | 31 |
| 2.5 CONCLUSIONS | 32 |

| | |
|---|-----------|
| 3 DEVELOPMENT CONTROL IN EUROPE - A COMPARISON - | 34 |
| 3.1 COMPARATIVE FRAMEWORK | 35 |
| 3.2 CULTURAL & IDEOLOGICAL BACKGROUND | 36 |
| 3.3 CONSTITUTIONAL & ORGANISATIONAL BACKGROUND | 37 |
| 3.3.1 <i>Concerns and tensions</i> | 37 |
| 3.3.2 <i>Approaches to 'rules'</i> | 38 |
| 3.4 LEGISLATION & REGULATION | 39 |
| 3.4.1 <i>Laws, regulations and codes</i> | 39 |
| i) The object of codification | 40 |
| ii) Current trends | 41 |
| iii) Codified planning systems | 41 |
| iv) Building -v- planning decisions | 41 |
| v) Environment & Employment considerations | 42 |
| 3.4.2 <i>Résumé</i> | 42 |
| 3.5 DEFINITIONS, PROCEDURES AND PLANS | 43 |
| 3.5.1 <i>What is development?</i> | 43 |
| 3.5.2 <i>What 'rules' control development?</i> | 44 |
| 3.5.3 <i>Plans</i> | 45 |
| i) Plans, by-laws and ordinances | 46 |
| ii) Plans and development control | 47 |
| 3.5.4 <i>Administrative procedures and mechanisms</i> | 47 |
| 3.5.5 <i>Implications for research</i> | 48 |
| 3.6 POLICY | 50 |
| 3.7 MONITORING & IMPLEMENTATION | 52 |
| 3.7.1 <i>Higher level systems</i> | 52 |
| 3.7.2 <i>Lower level systems</i> | 52 |
| 3.7.3 <i>How the 'rules' are, or are not, applied</i> | 53 |
| 3.7.4 <i>Non-conforming development proposals</i> | 54 |
| 3.7.5 <i>Further implications for research</i> | 55 |
| 3.8 FLEXIBILITY | 56 |
| 3.9 SUMMARY AND CONCLUSIONS | 57 |
| 4 EMPIRICAL RESEARCH - FOCUS, DESIGN, ANALYSIS - | 60 |
| 4.1 THE HYPOTHESIS REVISITED | 60 |
| 4.1.1 <i>Revised research questions</i> | 61 |
| 4.2 THE RESEARCH TASK | 61 |
| 4.2.1 <i>Inherent falsification</i> | 62 |
| 4.2.2 <i>Uncovering practices</i> | 63 |
| 4.2.3 <i>Information sources</i> | 63 |
| 4.2.4 <i>The extent of the research</i> | 63 |
| 4.3 A FRAMEWORK FOR DATA ANALYSIS | 64 |
| 4.3.1 <i>Rival propositions and idealised models</i> | 65 |
| 4.3.2 <i>Locating decisions</i> | 67 |
| 4.3.3 <i>Identifying factors in the decision making process</i> | 68 |
| 4.3.4 <i>Transparency and equity</i> | 69 |
| 4.4 SELECTING THE RESEARCH METHOD | 69 |
| 4.4.1 <i>Adopting the 'Case Study' method</i> | 70 |
| 4.4.2 <i>The appropriateness of Multiple Case Studies</i> | 71 |
| 4.4.3 <i>An Experiment</i> | 71 |
| 4.5 DESIGNING THE CROSS-NATIONAL PROJECT | 72 |
| 4.5.1 <i>Challenge and concept</i> | 72 |
| 4.5.2 <i>Collaboration</i> | 72 |
| 4.5.3 <i>Research Associates (RA's)</i> | 74 |
| 4.5.4 <i>Leadership & Teamwork</i> | 75 |
| 4.5.5 <i>Communications</i> | 75 |
| 4.6 THE ENGLISH PILOT STUDIES | 75 |
| 4.6.1 <i>Individual case study design considerations</i> | 76 |
| 4.6.2 <i>Selecting locations</i> | 76 |
| 4.6.3 <i>Case selection</i> | 77 |
| 4.6.4 <i>Document review</i> | 77 |
| 4.6.5 <i>The Interview Schedule</i> | 78 |

| | |
|---|------------|
| 4.6.6 The interview process..... | 79 |
| 4.6.7 Post interview procedures..... | 80 |
| 4.6.8 Recording and Reporting..... | 80 |
| 4.6.9 Ethical Considerations..... | 80 |
| 4.6.10 Individual authority..... | 81 |
| 4.6.11 Verification, validation and progress checks..... | 81 |
| 4.6.12 Continuous Review..... | 82 |
| 4.6.13 Sharing knowledge..... | 83 |
| 4.7 ADAPTING THE CASE METHOD FOR CONTINENTAL USE..... | 83 |
| 4.7.1 Influences on case study focus..... | 83 |
| 4.7.2 Influences on case study design..... | 83 |
| 4.8 THE MAINLAND PROJECT IN PRACTICE..... | 84 |
| 4.8.1 Location and Case selection..... | 85 |
| 4.8.2 Preparation and training..... | 86 |
| 4.8.3 Flexibility and opportunity..... | 86 |
| 4.8.4 Access to Data..... | 87 |
| 4.8.5 Intensified Documentary Review..... | 87 |
| 4.8.6 Reception..... | 88 |
| 4.8.7 Welfare..... | 88 |
| 4.9 APPRAISAL OF PROJECT DESIGN & METHOD..... | 88 |
| 4.9.1 Research Assistants..... | 89 |
| 4.9.2 Phased research..... | 89 |
| 4.9.3 RA Benefits..... | 90 |
| 4.9.4 Chronology..... | 90 |
| 4.9.5 Efficacy & Resources..... | 92 |
| 4.9.6 Lessons for the future..... | 92 |
| 5 ENGLISH PLANNING PERMISSIONS - 6 PILOT PROJECT CASES -..... | 94 |
| 5.1 WESTON..... | 94 |
| 5.1.1 The Hostage Hotel & Office Complex (Case E-01)..... | 95 |
| 5.1.2 Issues and processes..... | 96 |
| 5.1.3 Practices - locating the decision and process..... | 97 |
| 5.1.4 Weston's 'Redundant' Green Belt (Case E-02)..... | 97 |
| 5.1.5 Issues and pressures..... | 98 |
| 5.1.6 Practices - locating the decision and process..... | 99 |
| 5.1.7 Sports-ground, Greyhounds or Superstore? (Case E-05)..... | 100 |
| 5.1.8 Issues and pressures..... | 101 |
| 5.1.9 Practices - locating the decision and process..... | 102 |
| 5.2 EASTVILLE..... | 103 |
| 5.2.1 Eastville's redundant hospital (Case E-07)..... | 103 |
| 5.2.2 Issues and processes..... | 105 |
| 5.2.3 Practices - Locating the decision and process..... | 105 |
| 5.2.4 City farm fruits private profits (Case E-08)..... | 106 |
| 5.2.5 Issues and pressures..... | 108 |
| 5.2.6 Practices - locating the decision and process..... | 108 |
| 5.2.7 Eastville's unwanted superstore and retail park (Case E-10)..... | 109 |
| 5.2.8 Issues and processes..... | 110 |
| 5.2.9 Practices - Locating the decision and process..... | 111 |
| 5.3 THE ENGLISH DEVELOPMENT PERMIT DECISION PROCESS..... | 111 |
| 5.3.1 Decision models and English practices..... | 111 |
| 5.3.2 English rules -v- English interests..... | 112 |
| 5.3.3 Ranking factors in the decision making process..... | 112 |
| 5.3.4 Indicators of transparency and equity..... | 115 |
| 6 THE EUROPEAN MAINLAND - CZECH REPUBLIC, FRANCE, GERMANY, HUNGARY, ITALY, NETHERLANDS - | 116 |
| 6.1 APPROACHES TO DEVELOPMENT CONTROL..... | 116 |
| 6.1.1 'Judgement' -v- 'Administration'..... | 116 |
| 6.1.2 Different routes to 'equity'..... | 117 |
| 6.2 CASE SELECTION..... | 118 |
| 6.3 CAVEATS, REPORTING, CONSIDERATION AND ANALYSIS..... | 119 |

| | |
|---|------------|
| 7 THE NETHERLANDS..... | 121 |
| 7.1 THE 'MEER EN BEEK' DEVELOPMENT, STEENHUIZEN (CASE N-01)..... | 123 |
| 7.1.1 <i>Issues and processes</i> | 124 |
| 7.1.2 <i>Practices - locating the decision and process</i> | 125 |
| 7.2 THE STORY OF LUCHTKASTEL IN THE EFTELING (CASE N-02) | 126 |
| 7.2.1 <i>Issues and processes</i> | 127 |
| 7.2.2 <i>Practices - locating the decision and process</i> | 128 |
| 7.3 HOTEL ENLARGEMENT AT HOEK EN MEER (CASE N-03) | 129 |
| 7.3.1 <i>Issues and processes</i> | 130 |
| 7.3.2 <i>Practices - locating the decision and process</i> | 131 |
| 7.4 CHEMICAL STORAGE AT NIEUWE HAVEN (CASE N-04)..... | 132 |
| 7.4.1 <i>Issues and processes</i> | 133 |
| 7.4.2 <i>Practices - locating the decision and process</i> | 134 |
| 7.5 HOOGOORD'S INCOMPLETE RETAIL CENTRE (CASE N-05)..... | 135 |
| 7.5.1 <i>Issues and processes</i> | 136 |
| 7.5.2 <i>Practices - locating the decision and process</i> | 137 |
| 7.6 THE DUTCH DEVELOPMENT PERMIT DECISION PROCESS..... | 138 |
| 7.6.1 <i>Decision models and Dutch practices</i> | 138 |
| 7.6.2 <i>Dutch rules -v- Dutch interests</i> | 139 |
| 7.6.3 <i>Ranking of factors in the Dutch decision making process</i> | 140 |
| 7.6.4 <i>Indicators of transparency and equity</i> | 142 |
| 8 GERMANY | 144 |
| 8.1 KLIENSTADT | 147 |
| 8.2 "LAST STOP HOTEL" (CASE D-01)..... | 147 |
| 8.2.1 <i>Issues and processes</i> | 149 |
| 8.2.2 <i>Practices - locating the decision and process</i> | 150 |
| 8.3 SUPERSTORE MIXERS (CASE D-02) | 150 |
| 8.3.1 <i>Issues and processes</i> | 152 |
| 8.3.2 <i>Practices - locating the decision and process</i> | 153 |
| 8.4 THE GERMAN DEVELOPMENT DECISION PROCESS..... | 154 |
| 8.4.1 <i>Decision models and German practices</i> | 154 |
| 8.4.2 <i>German rules -v- German interests</i> | 155 |
| 8.4.3 <i>Ranking of factors in the German decision making process</i> | 156 |
| 8.4.4 <i>Indicators of transparency and equity</i> | 157 |
| 9 ITALY | 158 |
| 9.1 LUIGI'S UNWANTED HYPERMARKET (CASE I-01)..... | 160 |
| 9.1.1 <i>Issues and processes</i> | 163 |
| 9.1.2 <i>Practices - locating the decision and process</i> | 165 |
| 9.2 'PAPERONE' - AN ALTERNATIVE VIEW OF THE USE OF TOWN PLANNING (CASE I-02)..... | 165 |
| 9.2.1 <i>Issues and processes</i> | 167 |
| 9.2.2 <i>Practices - locating the decision and process</i> | 168 |
| 9.3 VERDI'S 'WORLD CUP' HOTEL (CASE I-03)..... | 168 |
| 9.3.1 <i>Issues and processes</i> | 170 |
| 9.3.2 <i>Practices - locating the decision and process</i> | 171 |
| 9.4 CLINICO'S PLANNED PLANNING CURE FOR MEZZO (CASE I-04) | 171 |
| 9.4.1 <i>Issues and processes</i> | 174 |
| 9.4.2 <i>Practices - locating the decision and process</i> | 176 |
| 9.5 RESIDENTIAL 'SWAPS' (CASE I-05)..... | 176 |
| 9.5.1 <i>Issues and processes</i> | 178 |
| 9.5.2 <i>Practices - locating the decision and process</i> | 179 |
| 9.6 THE ITALIAN DEVELOPMENT PERMIT DECISION PROCESS | 179 |
| 9.6.1 <i>Decision models and Italian practices</i> | 180 |
| 9.6.2 <i>Italian rules -v- Italian interests</i> | 180 |
| 9.6.3 <i>Ranking of factors in the Italian decision making process</i> | 182 |
| 9.6.4 <i>Indicators of transparency and equity</i> | 184 |
| 10 FRANCE..... | 186 |
| 10.1 GRANDEVILLE'S DISAPPEARING SITE VALUE (CASE F-01) | 189 |

| | |
|--|------------|
| 10.1.1 Issues and processes..... | 191 |
| 10.1.2 Practices - locating the decision and process | 193 |
| 10.2 'FRIENDSHIP' IN PETITEVILLE (CASE F-02)..... | 194 |
| 10.2.1 Issues and processes..... | 195 |
| 10.2.2 Practices - locating the decision and process | 196 |
| 10.3 FLEUVAINE'S HOTEL NEUVE (CASE F-03)..... | 196 |
| 10.3.1 Issues and processes..... | 199 |
| 10.3.2 Practices - locating the decision and process | 199 |
| 10.4 SUDLIEU'S LUXURY APARTMENTS (CASE F-04) | 200 |
| 10.4.1 Issues and processes..... | 201 |
| 10.4.2 Practices - locating the decision and process | 202 |
| 10.5 CHARLÈSVILLE - DEVELOPMENT IN A FRENCH MID SIZED TOWN (CASE F-05)..... | 202 |
| 10.5.1 Issues and processes..... | 204 |
| 10.5.2 Practices - locating the decision and process | 205 |
| 10.6 THE FRENCH DEVELOPMENT PERMIT DECISION PROCESS | 205 |
| 10.6.1 Decision models and French practices | 206 |
| 10.6.2 French rules -v- French interests..... | 206 |
| 10.6.3 Ranking of factors in the French decision making process..... | 207 |
| 10.6.4 Indicators of transparency and equity | 209 |
| 11 CENTRAL EUROPE - CZECH REPUBLIC & HUNGARY -..... | 211 |
| 11.1 ZLONKOŠ..... | 212 |
| 11.1.1 Government & Administration..... | 212 |
| 11.1.2 Planning, development control, and property..... | 213 |
| 11.1.3 The Prestige Bank job (Case CE-01) | 214 |
| 11.1.4 Issues and processes..... | 216 |
| 11.1.5 Practices - locating the decision and process | 217 |
| 11.2 DOBRASŤ..... | 217 |
| 11.2.1 The Prestige Hotel 'Competition' (Case CE-02)..... | 218 |
| 11.2.2 Issues and processes..... | 219 |
| 11.2.3 Practices - locating the decision and process | 220 |
| 11.3 PRNĀ..... | 221 |
| 11.3.1 Happy motoring! (Case CE-03)..... | 221 |
| 11.3.2 Issues and processes..... | 222 |
| 11.3.3 Practices - locating the decision and process | 223 |
| 11.4 KSPĀR | 224 |
| 11.4.1 'Southgate' (Case CE-04)..... | 224 |
| 11.4.2 Issues and processes..... | 226 |
| 11.4.3 Practices - locating the decision and process | 227 |
| 11.5 THE CENTRAL EUROPEAN DEVELOPMENT PERMIT DECISION PROCESS | 228 |
| 11.5.1 Central European rules -v- Central European Interests..... | 228 |
| 11.5.2 Decision models and Central European practices | 229 |
| 11.5.3 Ranking factors in the decision making process..... | 229 |
| 11.5.4 Indicators of Transparency & Equity..... | 231 |
| 12 APPLICATION AND DECISION PRACTICES - COMPARING CASES, COUNTRIES AND 'COUNTRY BLOCKS' - | 232 |
| 12.1 DATA TREATMENT, CATEGORISATION AND CONFIDENCE LEVEL..... | 233 |
| 12.2 TESTING THEORY | 233 |
| 12.3 CAVEATS | 234 |
| 13 THE PROCESS OF LAND CONVERSION | 235 |
| 13.1 LAND-USE AND CHANGE..... | 235 |
| 13.1.1 Forces driving change..... | 236 |
| 13.2 DEVELOPMENT TYPES | 237 |
| 13.2.1 Influences on and of development type | 238 |
| 13.2.2 The influence of property supply and demand..... | 240 |
| 13.3 SITE TYPES..... | 241 |
| 13.4 WHAT DO THESE CONSIDERATIONS SUGGEST? | 243 |
| 13.5 THEORISATION - THE PRODUCTION OF DEVELOPMENT SITES | 244 |

| | |
|--|------------|
| 14 INTERESTS AND ISSUES IN LAND CONVERSION..... | 247 |
| 14.1 INTERESTS | 247 |
| 14.2 ISSUES | 249 |
| 14.3 OTHER PRESSURES | 251 |
| 14.3.1 Private Work | 251 |
| 14.3.2 Development Profits | 252 |
| 14.3.3 Local community benefits | 253 |
| 14.3.4 Political games | 253 |
| 14.3.5 Favours & bribes | 254 |
| 14.3.6 Elites & the media | 254 |
| 14.4 COMPARISON BY RANKED FACTORS | 256 |
| 14.5 THEORISATION - THE BALANCING OF INTERESTS | 256 |
| 14.5.1 Spatial -v- commercial concerns | 257 |
| 14.5.2 Development rights | 259 |
| 14.5.3 Power, knowledge and persuasion | 260 |
| 14.5.4 Political dis-interest | 260 |
| 14.5.5 'City Image' | 261 |
| 14.5.6 'Rules' -v- negotiation | 261 |
| 14.5.7 Conclusions | 262 |
| 15 APPLICATION AND PERMIT DECISIONS IN LAND USE CONVERSION..... | 263 |
| 15.1 DECISIONS IN PRACTICE | 263 |
| 15.1.1 Application and decision making processes | 265 |
| 15.1.2 Negotiation and bargaining supersedes the 'rules' | 266 |
| 15.2 POLICY, 'RULES' AND DECISIONS | 267 |
| 15.2.1 Rule coercion | 268 |
| 15.3 HYBRID MODELS OF THE DECISION PROCESS | 268 |
| 15.3.1 Municipal Entrepreneurial Model | 269 |
| 15.3.2 Rule Co-optation model | 270 |
| 15.3.3 Main differences between hybrid models | 271 |
| 15.3.4 Hybrid models, site and development types | 271 |
| 15.4 TRANSPARENCY AND 'EQUITY' IN DECISIONS | 273 |
| 15.4.1 Winners and Losers from permit decisions | 274 |
| i) Winners | 275 |
| ii) Losers | 277 |
| 15.4.2 The legitimacy of decisions | 279 |
| 15.5 THEORISATION - PLANNING BY NEGOTIATED DECISIONS | 280 |
| 15.5.1 The entrepreneurial shift toward elite consensus | 280 |
| i) The undermining of due process | 282 |
| 15.5.2 Power, interests and equity | 283 |
| i) The power of networks | 284 |
| ii) The 'upper hand' of commerce | 284 |
| 15.5.3 The 'Rules' as a framework for negotiation | 285 |
| i) The complexity of policy and 'rules' | 285 |
| ii) How policy 'aids and abets' negotiation | 286 |
| iii) Consensus, Collusion and Concealment | 287 |
| iv) Ignorance, transparency and decisions | 288 |
| 15.5.4 Differences in the way the 'decision game' is played | 289 |
| i) Interpreting the 'rules' | 289 |
| ii) permit decisions | 289 |
| iii) exercising influence | 290 |
| iv) interests in development | 290 |
| 16 BEHAVIOUR IN DECISIONS OVER LAND CONVERSION..... | 291 |
| 16.1 'RULES' AND BEHAVIOUR | 291 |
| 16.1.1 The perceived purpose of 'rules' | 291 |
| 16.1.2 The actual use of 'rules' | 293 |
| 16.2 COMPARING BEHAVIOUR VIA THE DECISION MATRIXES | 294 |
| 16.3 MOTIVES FOR TAKING DECISIONS | 296 |
| 16.4 ORGANISATIONS AND BEHAVIOUR | 298 |
| 16.5 ACTORS AND BEHAVIOUR | 300 |

| | |
|---|------------|
| 16.6 THE INFLUENCE OF DEVELOPMENT TYPE ON BEHAVIOUR | 302 |
| 16.7 THEORISATION - BEHAVIOUR UNDER CHANGING CONDITIONS | 303 |
| 16.7.1 <i>The influence of capability and conditioning on behaviour</i> | 304 |
| 16.7.2 <i>The motivation and control of behaviour</i> | 305 |
| 16.7.3 <i>The influence of 'rules' on behaviour</i> | 306 |
| 16.7.4 <i>Power, policy and behaviour</i> | 308 |
| 16.7.5 <i>Good, bad and amoral behaviour</i> | 308 |
| 16.7.6 <i>Conclusions</i> | 310 |
| 17 CONSOLIDATION - IMPLICATIONS FOR PLANNING, DEVELOPMENT AND LATTER DAY LIBERAL DEMOCRACY - | 312 |
| 17.1 CHANGE AND CHOICE | 313 |
| 17.1.1 <i>Intervention, control and competition</i> | 313 |
| 17.1.2 <i>Change and equity</i> | 314 |
| 17.1.3 <i>Markets, choice, infrastructure and institutions</i> | 315 |
| 17.2 THREATS AND RESPONSES | 317 |
| 17.2.1 <i>legitimacy and due process</i> | 317 |
| 17.2.2 <i>Transparency</i> | 318 |
| 17.2.3 <i>The ownership conundrum</i> | 319 |
| 17.2.4 <i>The environmental imperative</i> | 319 |
| 17.2.5 <i>The ethical stance</i> | 320 |
| 17.3 TENSIONS FOR EQUITY | 322 |
| 17.3.1 <i>Developers -v- End-users -v- Professionals</i> | 322 |
| 17.3.2 <i>Culture -v- Competence</i> | 323 |
| 17.3.3 <i>Political choice -v- Market choice</i> | 324 |
| 17.3.4 <i>Private rights -v- Public rights</i> | 324 |
| 17.3.5 <i>Politics -v- Commerce</i> | 325 |
| 17.4 PRINCIPLES AND PRACTICE | 326 |
| 17.4.1 <i>Seven 'principles' for exploiting European land conversion</i> | 327 |
| i) <i>The principle of remoteness of decisions</i> | 327 |
| ii) <i>The principle of disciplinary self delusion</i> | 327 |
| iii) <i>The principle of powerful ideas</i> | 327 |
| iv) <i>The principle that self interests adjust to malpractice</i> | 327 |
| v) <i>The principle that concealment attends poor resolve</i> | 328 |
| vi) <i>The principle that regulation carries potential for profit</i> | 328 |
| vii) <i>The principle of protection via circular deception</i> | 328 |
| 17.4.2 <i>Converting practices into principles</i> | 328 |
| 17.4.3 <i>Interdependent relationships</i> | 328 |
| 17.5 INSTITUTIONAL ANOMALIES | 329 |
| 17.5.1 <i>Covert institutionalism</i> | 330 |
| 17.5.2 <i>Interests and institutions</i> | 330 |
| 17.5.3 <i>Institutionalising co-optation</i> | 331 |
| 17.5.4 <i>Inefficacy in liberal democratic institutions</i> | 331 |
| 17.6 EMERGENT THEORY | 332 |
| 17.6.1 <i>Co-operative consciousness and the new morality</i> | 334 |
| 17.6.2 <i>The 'new morality'</i> | 335 |
| 17.7 CONCLUSIONS | 336 |
| 17.8 SUMMARY | 338 |
| Appendixes | I |
| References | LXIV |

List of Figures

| | | |
|----------|---|----|
| Figure 1 | <i>Goodchild & Munton's 7 elements of land allocation and development</i> | 16 |
| Figure 2 | <i>Barrett et al's 3 sets of 'pipeline' events in the development process</i> | 17 |
| Figure 3 | <i>Barrett & Whiting's 5 principal actors in the development process</i> | 17 |
| Figure 4 | <i>English -v- Continental approaches to planning systems derived from literature</i> | 22 |
| Figure 5 | <i>Comparison of the change in purposes of planning interventions in Europe</i> | 25 |
| Figure 6 | <i>Some Issues & Interests in Permit Decisions</i> | 26 |

| | | |
|------------|--|-----|
| Figure 7 | <i>Continental plan led 'conformance' systems</i> | 58 |
| Figure 8 | <i>Differences between English & Continental systems</i> | 59 |
| Figure 9: | <i>Power -v- Interests</i> | 68 |
| Figure 10: | <i>Design for multiple case study, cross national research project</i> | 73 |
| Figure 11 | <i>Considerations leading to the projects 'Code of Ethics'</i> | 81 |
| Figure 12 | <i>Design of Progress Checks</i> | 82 |
| Figure 13 | <i>Revising the case and project designs</i> | 84 |
| Figure 14 | <i>Building the main project</i> | 85 |
| Figure 15 | <i>Benefits flowing to Research Assistants from collaborative cross country research</i> | 90 |
| Figure 16 | <i>Indicative Outline of Forecast & Actual Research Timetable</i> | 91 |
| Figure 17 | <i>Synopsis of case E-01 - 'The Hostage Hotel and Office Complex'</i> | 96 |
| Figure 18 | <i>Synopsis of case E-02 - 'Weston's Redundant Greenbelt'</i> | 98 |
| Figure 19 | <i>Synopsis of case E-05 - 'Sports-ground, Greyhound or Superstore'</i> | 101 |
| Figure 20 | <i>Synopsis of case E-07 - 'The redundant hospital'</i> | 105 |
| Figure 21 | <i>Synopsis of case E-08 - 'City farm fruits private profits'</i> | 108 |
| Figure 22 | <i>Synopsis of case E-10 - 'The unwanted superstore and retail park'</i> | 110 |
| Figure 23: | <i>Matrix of rules, interests and power in English land-use decision making</i> | 112 |
| Figure 24 | <i>Synopsis of case N-01 - The 'Meer en Beek' development, Steenhuizen</i> | 124 |
| Figure 25 | <i>Synopsis of case N-02 - 'Luchtkastel in the Efteling'</i> | 127 |
| Figure 26 | <i>Actor Network, case N-02</i> | 128 |
| Figure 27 | <i>Synopsis of case N-03 - Hotel enlargement at 'Hoek en Meer'</i> | 130 |
| Figure 28 | <i>Synopsis case N-04 - Chemical storage at 'Nieuwe Haven'</i> | 133 |
| Figure 29 | <i>Nieuwe Haven chemical storage</i> | 133 |
| Figure 30 | <i>Synopsis case N-05 - 'Hoogoord's' incomplete retail centre</i> | 136 |
| Figure 31 | <i>Matrix of rules, interests and power in Dutch land use decision making</i> | 140 |
| Figure 32 | <i>Factors in the decision making process in 5 Dutch cases</i> | 141 |
| Figure 33 | <i>Synopsis case D-01 - 'Klienstadt's Last Stop Hotel'</i> | 149 |
| Figure 34 | <i>Synopsis case D-02 - 'Klienstadt's Superstore Mixers'</i> | 152 |
| Figure 35 | <i>Matrix of rules, interests and power in German land use decision making</i> | 155 |
| Figure 36 | <i>Factors in the decision making process in 2 German cases</i> | 156 |
| Figure 37 | <i>Italian developer's expose of politico-planning</i> | 159 |
| Figure 38 | <i>Synopsis of case I-01 - Luigi's unwanted Hypermarket</i> | 162 |
| Figure 39 | <i>Synopsis of case I-02 - 'Paperone', an alternative view of Town Planning</i> | 167 |
| Figure 40 | <i>Synopsis of case I-03 - 'Verdi's World Cup Hotel'</i> | 170 |
| Figure 41 | <i>Synopsis of case I-04 - 'Clinico's planned care for Mezzo'</i> | 174 |
| Figure 42 | <i>Synopsis of case I-05 - 'Residential swaps'</i> | 178 |
| Figure 43 | <i>Matrix of rules, interests and power in Italian land use decision making</i> | 181 |
| Figure 44 | <i>Factors in the decision making process in 5 Italian cases</i> | 182 |
| Figure 45 | <i>Synopsis of case F-01 - 'Grandeville's disappearing site value'</i> | 191 |
| Figure 46 | <i>Petiteville residential scheme</i> | 194 |
| Figure 47 | <i>Synopsis of case F-02 - 'Friendship in Petiteville'</i> | 195 |
| Figure 48 | <i>Fleuvaine's Hotel Neuve</i> | 197 |
| Figure 49 | <i>Synopsis of case F-03 - Fleuvaine's Hotel Neuve</i> | 199 |
| Figure 50 | <i>Synopsis of case F-04 - Sudlieu's luxury apartments</i> | 201 |
| Figure 51 | <i>Synopsis of case F-05 - Charlèsville - development in a French mid sized town</i> | 204 |
| Figure 52 | <i>Matrix of rules, interests and power in French land use decision making</i> | 207 |
| Figure 53 | <i>Factors in the decision making process in 5 French cases</i> | 208 |
| Figure 54 | <i>French municipal development cartel decision process</i> | 210 |
| Figure 55 | <i>Synopsis of case CE-01, The Prestige Bank Job</i> | 216 |
| Figure 56 | <i>Synopsis of case CE-02, The Prestige Hotel 'Competition'</i> | 219 |
| Figure 57 | <i>GlkCar's island site</i> | 221 |
| Figure 58 | <i>Synopsis of case CE-03, Happy Motoring!</i> | 222 |
| Figure 59 | <i>Kspár's 'Southgate' project</i> | 224 |
| Figure 60 | <i>Synopsis of case CE-04, 'Southgate'</i> | 226 |
| Figure 61: | <i>Locating Central European decisions and processes</i> | 228 |

| | | |
|-----------|---|-----|
| Figure 62 | <i>Change and development type</i> | 239 |
| Figure 63 | <i>Importance of Actors & Agencies in the decision process</i> | 254 |
| Figure 64 | <i>Factors influencing case decisions ranked by region and tototal</i> | 255 |
| Figure 65 | <i>Relationships between interests controlling resources and 'public image'</i> | 257 |
| Figure 66 | <i>Summary of European decision making processes</i> | 264 |
| Figure 67 | <i>Decision models and European practices</i> | 266 |
| Figure 68 | <i>Transparency & Equity by country & region</i> | 274 |
| Figure 69 | <i>Combined Matrix of rules, interests & power in European land-use decision making</i> | 295 |
| Figure 70 | <i>Geddes' theory of planning as seen by Ferraro (1995)</i> | 339 |

List of Tables

| | | |
|----------|--|-----|
| Table 1: | <i>Classification of models of development process per Gore & Nicholson and Healey</i> | 15 |
| Table 2 | <i>Constitutional /organisational background to regulatory systems</i> | 37 |
| Table 3 | <i>Legislation & Regulation in selected European development control systems</i> | 40 |
| Table 4 | <i>Plans in selected European development control systems</i> | 46 |
| Table 5 | <i>Procedures in selected European development control systems</i> | 49 |
| Table 6 | <i>Policy in selected European development control systems</i> | 50 |
| Table 7 | <i>Application of 'rules' in selected European development control systems</i> | 54 |
| Table 8 | <i>Flexibility in selected European development control systems</i> | 56 |
| Table 9 | <i>UK Pilot Study cases</i> | 78 |
| Table 10 | <i>Decision models and English practices</i> | 111 |
| Table 11 | <i>Factors in the decision making process of 6 English major commercial developments</i> | 114 |
| Table 12 | <i>Transparency & Equity Indicators</i> | 115 |
| Table 13 | <i>Decision models and Dutch practice</i> | 139 |
| Table 14 | <i>Transparency Equity Indicators</i> | 142 |
| Table 15 | <i>Decision models and German practices</i> | 155 |
| Table 16 | <i>Transparency & Equity Indicators</i> | 157 |
| Table 17 | <i>Decision models and Italian processes</i> | 180 |
| Table 18 | <i>Transparency & Equity Indicators</i> | 184 |
| Table 19 | <i>Decision models and French practices</i> | 206 |
| Table 20 | <i>Transparency & Equity Indicators</i> | 209 |
| Table 21 | <i>Decision models & Central European practices</i> | 229 |
| Table 22 | <i>Factors in the decision making process of 4 East European major developments</i> | 230 |
| Table 23 | <i>Transparency & Equity Indicators</i> | 231 |
| Table 24 | <i>Contrasting behavioural influences on permit decisions</i> | 305 |

List of Charts

| | | |
|----------|---|-----|
| Chart 1 | <i>Transparency & Equity Indicators compared</i> | 115 |
| Chart 2 | <i>Transparency & Equity Indicators compared</i> | 143 |
| Chart 3 | <i>Transparency & Equity Indicators compared</i> | 157 |
| Chart 4 | <i>Transparency & Equity Indicators compared</i> | 184 |
| Chart 5 | <i>Transparency & Equity Indicators compared</i> | 210 |
| Chart 6 | <i>Transparency & Equity Indicators compared</i> | 231 |
| Chart 7 | <i>Factors in land-use change</i> | 235 |
| Chart 8 | <i>Average time of land-use change</i> | 236 |
| Chart 9 | <i>Some forces driving land-use change</i> | 236 |
| Chart 10 | <i>Development types by country & total</i> | 237 |
| Chart 11 | <i>Perceived influence of development type on permit decisions by country & total</i> | 238 |
| Chart 12 | <i>Influence of Market conditions on decisions by country & total</i> | 241 |
| Chart 13 | <i>Site types by country & total</i> | 242 |

| | | |
|----------|--|-----|
| Chart 14 | <i>Interests found to be involved in permit decisions by country and total</i> | 248 |
| Chart 15 | <i>Issues found to be involved in permit decision making by country & total</i> | 250 |
| Chart 16 | <i>General pressures on decisions by country and total</i> | 252 |
| Chart 17 | <i>Types of decisions found in practice by country and total</i> | 263 |
| Chart 18 | <i>European decision making processes by category</i> | 266 |
| Chart 19 | <i>The decision making process by country 'block'</i> | 267 |
| Chart 20 | <i>Different ways in which 'rules' are coerced in practice by country and total</i> | 268 |
| Chart 21 | <i>Cases summarised by hybrid decision model, site type and country</i> | 271 |
| Chart 22 | <i>Cases summarised by hybrid decision, development type & region</i> | 272 |
| Chart 23 | <i>Transparency & Equity by case and overall average</i> | 274 |
| Chart 24 | <i>'Winners' from development permit decisions identified by country and total</i> | 276 |
| Chart 25 | <i>Identification of those who lose from permit decisions by country and total</i> | 278 |
| Chart 26 | <i>Perceived purposes of 'rules' identified by country and total</i> | 292 |
| Chart 27 | <i>Some actual uses of 'rules' identified by country and total</i> | 293 |
| Chart 28 | <i>Motives found for taking decisions in practice by country and total</i> | 297 |
| Chart 29 | <i>Organisations involved in permit decisions by country and total</i> | 298 |
| Chart 30 | <i>Actors identified as involved in the permit decision process by country and total</i> | 301 |

List of Diagrams

| | | |
|-----------|---|-----|
| Diagram 1 | <i>Focussing the research</i> | 10 |
| Diagram 2 | <i>The dynamics of planning systems</i> | 14 |
| Diagram 3 | <i>Idealised model of the PLAN driven permit decision process</i> | 65 |
| Diagram 4 | <i>Idealised model of the NEGOTIATION driven permit decision process</i> | 66 |
| Diagram 5 | <i>Idealised model of the POLICY driven permit decision process</i> | 67 |
| Diagram 6 | <i>Municipal Entrepreneurial model of the land-use application decision process</i> | 269 |
| Diagram 7 | <i>Rule Co-optation model</i> | 270 |

List of Illustrations

| | | |
|----------------|--|-----|
| Illustration 1 | <i>Lens eye view of a Continental wall plan, showing hand written permit records</i> | 118 |
| Illustration 2 | <i>Influence in decisions</i> | 247 |
| Illustration 3 | <i>The bounds of collusion</i> | 276 |
| Illustration 4 | <i>How politicians benefit</i> | 277 |
| Illustration 5 | <i>An Italian view of how planning's purpose & 'rules' have changed</i> | 292 |
| Illustration 6 | <i>Favours or clientelism?</i> | 294 |
| Illustration 7 | <i>The interdependence of issues raised by interests in permit decisions</i> | 329 |

Appendixes

| | | |
|-------------|---|-------|
| Appendix 1 | <i>Example of local project MBO programme</i> | II |
| Appendix 2 | <i>Example of RA's MBO programme</i> | III |
| Appendix 3 | <i>Code of Ethics</i> | IV |
| Appendix 4 | <i>RA's ethical undertaking</i> | VI |
| Appendix 5 | <i>Interview Schedule</i> | VII |
| Appendix 6 | <i>The interdisciplinary RA research team</i> | XVI |
| Appendix 7 | <i>Schedule of interviews by country and case</i> | XVII |
| Appendix 8 | <i>Schedule of Interviews by Agencies and Actors</i> | XXIII |
| Appendix 9 | <i>A German Planner's Evidence</i> | XXX |
| Appendix 10 | <i>Interview with independent (no case connection) Italian developer</i> | XLII |
| Appendix 11 | <i>Hungary, its planning and land tenure systems</i> | XLIV |
| Appendix 12 | <i>Czech Republic and planning systems</i> | XLIX |
| Appendix 13 | <i>Example of Post 'Velvet Revolution' Municipal Organisation in Central Europe</i> | L |
| Appendix 14 | <i>Background to practices by country</i> | LI |
| Appendix 15 | <i>Background to practices by development type</i> | LII |
| Appendix 16 | <i>Tabular analyses by country</i> | LIII |
| Appendix 17 | <i>Issues raised by interests in permit decisions, ranked by dependence</i> | LXIII |

Glossary of terms used

General and/or English case terms

- abduction:** per Thomas et al (1983 p.xxi) a way of searching for a theory to explain the facts.
- actor/s:** Any individual who takes part in the practice of environmental planning, land allocation and development.
- agency/ies:** Any organisation or body through which actions are taken or power exercised relative to the realisation of environmental planning, land allocation and development.
- AHA:** Area Health Authority
- analysis:** The task of analysis is to identify the nature of the nexus of roles and relationships which were critical in a particular instance, and to generalise across instances (Healey, 1992, "An institutional model ...)
- anomie:** in society or in an individual, a condition of hopelessness caused by breakdown of rules or conduct, and loss of belief or sense of purpose (Chambers 1973)
- application:** the submission of forms, documents and plans to the local planning authority to request grant of permit to develop land or property.
- betterment value:** 'Betterment' was conceived by the Uthwatt Report (1942) as *"any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive, for example by the execution of public work or improvements, or negative, for example by the imposition of restrictions on the other land."* The 1947 Act went further: all betterment was created by the community, and it was unreal and undesirable (as well as virtually impossible) to distinguish between values created, for example, by particular planning schemes, and those due to other factors, such as the general activities of the community or the general level of prosperity (Cullingworth 1988,160). In summary, 'betterment value' is considered here as the change in value of land and property arising from its conversion from one use to another as a result of receiving planning (development) permission.
- case synopsis:** provides a condensed history of the conditions, events and circumstances leading to and surrounding the development application, permit decision and outcomes.
- change:** The ubiquity of conflict means that industrial systems are subject to continuous change. Other factors, like the growth of knowledge also contribute to change (Simmie 1981, p.58)
- city:** here includes all towns and other municipalities having authority to issue development permits.
- clientelism:** a process based on relations of dependency between state officials and politicians with the latter acting as patrons to dependent claimants or supplicants who receive resources in return for, usually, political support (Healey, McNamara, et al, 1988 p222)
- code:** A systematically arranged and comprehensive collection of laws, regulations and procedures, or generally accepted set of principles.
- codified regulatory devices, or 'rules' :** Those mechanisms and instruments, formal and informal, designed in accordance with or to make use of codes (see codified) and available to actors and agencies for the control (regulation) of the planning system.
- codified:** Systematically arranged and comprehensively collected; used here it applies to those laws, regulations and rules of procedure or conduct intended to control urban planning and property development. In mainland Europe this often follows the principles and objectives of the *Code Napoleon* (1804-1807).
- commercial power:** the ability to deploy finance and other resources and to marshal a range of knowledge, instruments and legal capacities in pursuit of the profitability and growth of the enterprise
- common-cause:** the integration of disparate interests and capacities in pursuit of mutual objectives which transcend individual aims; at a lesser level this may be the joining together of people or organisational effort for common benefit.
- compact city policy:** as used in Holland, emphasises high densities in urban renewal areas, in-filling elsewhere, and developing housing on the urban fringe. The object is to make fullest possible use of existing facilities and infrastructure without placing extra burdens on the environment (M. Hoogerbrugge, January 1994, personal communication).

- conflict:** Conflict is endemic in the system because different organisations and distributive groupings have different values and aspirations. Normally the larger the organisation, the more power it possesses, and the more successful it will be in conflict situations (Simmie, 1981, p.57)
- consociate wealth:** the term used in and coined by Denman and Prodano (1972 p.145) to denote the wealth which in the hands of he who holds a proprietary land unit is capable of assimilation with the wealth of the unit. The power of assimilation is dependent upon a common title to ownership or the rights of property.
- consumption:** here used to include the use (and purchase) of property.
- co-optation:** used in this thesis in the subversive sense to mean the assimilation into a group or culture of actors or agencies, possibly holding specially relevant knowledge or skills, who may be averse to some group act or object, thereby obtaining their quiescence and/or co-operation, possibly via some inducement or other persuasion.
- corporatism:** the process whereby state economic strategy, social welfare and action is realised through tripartite arrangements between employers, unions and the state (Healey, McNamara, et al, 1988 p222)
- corporatist:** operation through corporatism
- corrupted:** worn away, eroded and/or changed into some form other than originally intended by the actions of forces not benign to the original.
- corruption:** dishonesty, baseness, degradation, venality
- CPO:** Chief Planning Officer of a municipality
- culture:** the set of shared beliefs, attitudes, values and behavioural patterns characteristic of a group, organisation or people.
- decision makers:** Those engaged in the process of gathering, analysing and evaluating material in the decision making process, often professional advisors, but who are not necessarily the decision takers.
- decision making:** As defined by Lichfield and Darin-Drabkin (1980, p55), *the process of marinating inputs from diverse, if usually selected, sources and advisors with the objective of enabling a decision to be taken; "... a complicated compound of the innumerable influences described."*
- decision matrix:** described in Chapter 7, this provides a simple, pictorial representation of the conclusions drawn about the degree to which rules and what type of interests informed each decision and gives an over-view of how these relate to one another. It makes no attempt to locate individual decisions with any detailed accuracy.
- decision taker/s:** The person/s at the receiving end of the vast array of information, influence and feedback pressures emanating from decision makers and making plus decision influencers and influences and having power, authority and responsibility for taking decision/s. They may but do not necessarily include both decision makers and influencers as, for example, an empowered politician or group of politicians who may have been advised by local authority officials and other professional decision makers and themselves been influencers. As Lichfield and Darrin-Drabkin (1980) write, "Any individual confronted with this bewildering array is facing an enormous task in moving toward a sensible decision on any issue, which can then be defended in this conflict society in terms of its superiority over other possible decisions and then defended again, following the passage of time, when the circumstances of change throw light with hindsight on the wisdom of the decision. Such difficulties are compounded in that elected representatives so often have to take decisions as members of a group rather than as individuals; they are inevitably working under pressures of time; in local government at least are only part time; and do not have at hand the political-science techniques and tools for the job. Yet they have the power to take decisions, subject only to the Courts if they offend the law. And since it is the decision which matters in influencing the future in planning, not all the preliminary build up, there is this fundamental discrepancy: the politicians have the power to operate in an atmosphere which is less conducive to rational decision-taking than do the professionals who do not have the power." To a varying extent, similar predicaments confront the other decision takers in the land allocation process, the land owners, developers, financiers and investors.
- decision taking:** The act of formalising commitment to a given course of action, often as an end point to the process of decision making.
- decision type:** Researcher's classification according to the heuristic models (Chapter 4)
- decision:** Friend (1974) defined a decision as "an act which passes into history once carried out." What matters in the practical world is the answer to the question of who has the power of decision making and action over the use of land resources (Denman and Prodano 1972 p.125).
- developer:** a person or organisation owning or controlling the necessary resources (land, finance, knowledge) who has the idea's, motivation/s, opportunity and capacity to construct a project.
- development control:** A process primarily involved with the state regulations of the translation of those (development plan) intentions into physical goods for consumption (Simmie, 1981, p.282)

- development plan:** A system primarily concerned with the allocation of land (Simmie 1981. p.282)
- development process:** a stream of operational decisions, both public and private (Thomas p.207)
- development rights:** those rights over land and property which entitle the holder to carry out development (although this may be subject to the obtaining of certain other permissions).
- development type:** Researcher's classification of these.
- discretionary decisions:** decisions taken internally by the municipality, often using the flexibility allowed by formal plan and rule structures, but sometimes going outside this.
- doctrine of Institutional Fairness:** (Boschken 1982 p.28) knowing whether 'fairness' has been achieved depends upon processes of the specific society.
- doctrine:** a principle or system of principles presented for acceptance or belief.
- DoT:** Department of Transport (national highways authority)
- economic:** Of or pertaining to the production, development and management of material wealth, including finance.
- economics:** The social science that deals with the production, distribution, and consumption of commodities and the theory and operation of financial systems.
- elite (member of):** a narrow and powerful clique.
- elitist:** subscribing to or promoting an elite or its ideas.
- entrepreneur:** one who undertakes a (business) venture; a person who organises, operates and assumes the risks of a business venture
- entrepreneurial:** of or pertaining to the activities of an entrepreneur.
- environment:** the combination of external or extrinsic physical conditions that affect and influence the growth and development of an organism/organisation; the complex of social and cultural conditions affecting the nature of an individual or community.
- environmental planning:** The making, implementation and enforcement of plans for future land use and development having particular regard for the aggregate of circumstances surrounding the complex of social and cultural conditions affecting the nature of an individual or community. This term is interchangeable with 'planning' and 'town planning'.
- equity:** fairness, equal treatment, equal resources, equal outcomes - contemporary & intergenerational
- Euregios:** Regions designated at the European scale, i.e. not purely national regions
- factor in decisions:** described in Chapter 7, this is a list of factors contributing to individual decisions. Derived from and applied to all cases, it has been weighted according to their perceived importance in those decisions where they occur (high = 3, medium = 2, low = 1). The table then shows the number (count) of times they do occur, and averages their total weight both by this count and, since a high weight for a single count would give undue importance to such item, by all cases in the group. The list is then ranked by both count and average weight over all group cases, being sorted in the order of the latter.
- favours & obligations:** the accordance of special treatment either to or by the applicant, to or by officers or politicians in a position to influence or take the decision on account of special relationships existing or being created between them.
- finance capital:** encompasses loans, equity and re-investment of profits (which increases shareholder equity).
- gentrified / gentrification:** improvement in property which occurs through an influx of middle class residents to change the character of a previously working class area.
- 'individual interests':** separates the personal interests of actors like politicians, professional employees and directors, from those formal interests which these same actors may have in the project and related issues by virtue of their position.
- institution:** a relationship or behavioural pattern of importance in the life of a community or society; an organisation or society set up to promote some cause.
- JV:** Joint Venture commercial scheme.
- knowledge utilisation:** The use of policy analysis by policy stakeholders to improve the process and outcomes of policy making. The use of policy analysis is a complex process that varies in composition, scope, and effects.
- land allocation:** The application by those having interest in a specific area of land or property for permission to use or develop it for a particular type of use and the subsequent decision by the authorities to grant permission for that use and development.
- land conversion:** converting land from one use to another, usually by obtaining formal permission to do so and often thereby increasing its worth,; e.g. by obtaining planning permission to change agricultural land to housing land.
- land cradle:** As Denman and Prodano (1972 p.122) explain, every physical thing makes some demand upon land. Chattels, *choses mobiles*, cannot exist by themselves, independent of and indifferent to the

land, its use and supply. Each several effect, item or article must stand somewhere on the land - ships need anchorage and an aircraft a hanger or its parking crib. All things in short, lie in a land cradle. The cradle and the provisions it makes for accommodating chattel assets depend upon, in any particular case, the attributes of the proprietary land units which honeycomb all land. Recognition of the relationship between an array of assets and the proprietary land unit in which they lie is of the utmost importance to a full understanding of the functional distribution of wealth in a society.

land policy: From empirical studies of ruling land policies in the UK and other countries, Lichfield and Darin-Drabkin (1980) recognised three broad sub-divisions in descending order of specificity with further sub-divisions, as follows: Direct control over development: control over specific development without taking land, control over specific development by taking land, control over specific development by direct public authority participation. *Fiscal control over development*, influences over development by fiscal measures, influence over specific development by fiscal measures, *General influence over development*, general influence on the land market.

liberal democracy: Markovits & Silverstein (1988) define liberal democracy as a political system in which the application of state power is curtailed in several ways. The first, most important constraint is the clear separation of the private and the public realms. Any explicit attempt to merge the two is considered illegitimate. Liberal democracies are also political systems in which any application of political power must be sanctioned by law and a certain degree of equality before the law is accorded all citizens. Furthermore, political power is subject to popular control through regular, open, and reasonably fair elections in which at least two parties compete for power. Finally, while there may not be a constitutional separation of secular and clerical authorities, the former has prevailed over the latter, at least in recent times. (p4).

local community: encompasses the interests of historical stakeholders in that place, like residents, property owners, business and commercial enterprises, community services, and so on.

LPA: local planning authority, usually the municipality.

major private project/s: Property development/s undertaken for private, i.e. non public sector, use (owner occupation, sale, rental, investment) and considered to be large for the community in which they occur, usually involving at least 1 Ha. of land, 30 housing units or 3,000 m2 of other types of development.

market economy: An economy regulated mainly or exclusively by market forces.

market forces: The effects on an economy of supply and demand, unmodified by government intervention.

market: The entire commercial enterprise of bartering, buying, selling and exchanging resources, goods and services.

methodology; A system of standards, rules and procedures for creating, critically assessing, and communicating policy-relevant knowledge.

morphological theory of capital: (Denman and Prodano 1972 p.36 et seq.) The morphology concept is marked off from the static concept implicit in the equilibrium analysis of the classical theories which conceive of capital as a homogenous aggregate (p.41) In the real world, changes in the supply of land resources are never, nor could ever be, the tiny gradations postulated by economic theory. Change does not mean a little bit more of the same thing, it is a total structural rearrangement, a change in wholeness, which cannot therefore be plotted as a line on a graph. Margins are not the creeping increments of marginal utility theory (p63)

negotiated decisions: decisions taken after negotiation with applicants and others and which often, but not always, require subsequent change and/or manipulation of plans to accord with other 'rules'.

NTO: National Tourist Office

operational decision: Thomas et al (1983 p.211) use the term to emphasise commitment to a course of action rather than its' effectuation. The latter may occur after the decision but, provided the commitment holds, is of little concern to a study of decision-making.

'original' plan: that plan which existed before the development proposed was envisaged

outcome: the result of the 'idea' and 'application'

pareto optimality: (McKay, p7)

participation:

plan: A plan outlines how policies should be applied with respect to a specific location or cluster of locations (Thomas et al 1983 p.213)

planned use: what the land was planned or intended for immediately before the 'project idea' was muted

planner: The planner, both in communist and non communist societies, is a technocrat, whose expertise is adapted to suit political purposes. (Haywood (1978) Intro. to 'Planning in Europe')

planning agreement/s: UK regulations allow municipalities to link formal contracts for the provision of 'planning gain' by applicants to the grant of a development permit.

- planning gain:** the securing of some benefit, like road improvement or social amenity, by a municipality from a developer under a formal contract as a condition of planning permission being granted. Officially this is supposed to be directly related to the development concerned.
- planning system/s:** That set of interacting, interrelated or interdependent institutional elements and practices collectively regarded as responsible for environmental planning.
- planning system:** In addition to the planning process, i.e. plan-making, plan implementation and review, this comprises the interrelated elements of co-ordination of public decisions, appropriate political, ministerial and professional machinery, participation by the public which is affected and means of communication among all parties to the process. There is all the difference in the world in plan implementation between localities which have or do not have co-ordination in decisions by central and/or local government departments, availability or non-availability of public officials who are professionally equipped in comprehending the development process; and whether or not the public is brought into the picture, be it in terms of information or decision involvement. But less obvious, though just as profound, is the varied machinery of plan making, implementation and review which is embodied in the statute, constitution and law of the country. (Lichfield and Darin-Drabkin, 1980, p28)
- planning:** "Nor does the existence of a formal document called a 'Plan', in which various planning activities are set out in print, establish the existence of planning, neither does its absence preclude the fact of planning" (Haywood (1978) Intro. to 'Planning in Europe') OR as identified by Buchanan "a very ruthless bargaining process" (Simmie, 1974 p.135) OR per Boschken (1982, "land use conflicts" p.26) the systematic collection of information, analysis of inputs, arrangement of development alternatives. Whether planning can be done synoptically (comprehensively) at a single point in time or whether the varies of impact and changing societal interests require an incremental approach.
- planning principles:** are those considerations recommended by a professional (planning) discipline upon the practice of planning. These may be either desirable standards to be achieved or assessments to be made.
- Planning Policy Guidance:** circulars from Central Government's to local authorities, advising on policy, etc.
- policy analysis:** An intellectual and practical activity aimed at creating, critically assessing, and communicating knowledge of and in the policy-making process. The process of policy analysis has five interdependent phases that together form complex, non-linear cycles or rounds of intellectual activities. These activities are ordered in time and embedded in a policy-making process that is complex, non-linear, and essential political.
- policy instruments:** those measures taken to secure the implementation of any policy, be this planning or otherwise. This includes, for example, formal guidance, direction, fiscal measures and normal implementation of (any level) government decision. They can embrace instructions given to officers who themselves are instruments for implementing policy. Whereas *regulatory instruments* generally apply to the specific (planning & development) subject, *policy instruments* do not necessarily require individual statutory approval.
- policy use:** what the policy for the use of the land was immediately before the 'project idea' was muted
- policy/ies:** Any guiding principle informing an overall plan, course of action, or procedure considered to be expedient, prudent or advantageous, designed and adopted, as by a government, political party, or business organisation, to influence and determine immediate and long-term decisions or actions.
- policy:** A policy is a statement of intent by an authority about how it intends to handle particular ideas in the future. (Thomas et al 1983 p.213). Policies are an evolving phenomena (which may periodically be recorded in plans) (Healey TPR 1991)
- political:** Of or pertaining to the study, structure or affairs of government or the state, especially in regard to civil policy-making rather than military, legal or administrative matters. As influenced by party politics this includes anything arising from or influenced by partisan interests, not neutral, objective or unbiased.
- politics:** The art or science of power and government including:- the methods or tactics involved in managing a state or government; - the policies, goals or affairs of a government or state or of the groups and parties; (including businesses and other enterprises) within it; - the scheming and manoeuvring for power and personal advantage that occurs within a given group
- power:** The ability or capacity for producing effects via i) force and coercion by overt and manifest compulsion, ii) dominance by hegemonic, ascendant or commanding influence, iii) manipulation by "unfair" or "underhand" means, iv) influence, unobtrusively and sometimes ascendancy.
- PPG:** *planning policy guidance* from Central Government's to local authorities, advising on policy, etc.
- practice/s:** The common or customarily repeated manner through which environmental planning, land allocation and development are realised.

- process:** is specified by cultural norms and constitutional rules BUT in general specifies that **fair outcomes** emerge from **negotiated** agreements where the potential for mutual gains exists. "A positive sum game" The rule also encourages seeking out of other interests to associate a broad base of citizen preferences with policy formation and implementation ((Boschken 1982 p.28)
- professional advisor:** formally qualified expert e.g. barrister, planner, engineer, architect, surveyor, valuer.
- property development (development):** the conversion or extension of use of property (land, buildings, physical resources) through the assembly of title/s, their acquisition and/or control, design, obtaining of permits, and the execution of works (mining, engineering, construction, etc.) in relation to that property.
- property rights:** That bundle of positive rights to do, to act and to be in relation to a specified piece of land, remaining from the unlimited power of absolute right after being subject to other laws, covenants and restrictions. The law gives but also takes away. At the opposite pole to rights of property lie the restraints upon the use of land resources. Liberties to plan and arrange the patterns and combinations of proprietary land resources within a proprietary land unit are sanctioned by the former and checked by the latter. The counterparts, the checking restrictions, cut down the areas of freedom for the holder of a proprietary land unit and thereby condition his manoeuvrability (Denman and Prodano 1972,51)
- proprietary land unit:** the fundamental land unit at which decisions are taken. (Denman and Prodano 1972) Let it be abundantly clear, the study of the proprietary land unit is the analysis of the character and functioning of the decision-making units, within which positive decisions are taken about the use of land (p.17)
- regulation:** A regulation sets out standards or performance criteria for carrying out policies in a specific situation (Thomas et al 1983 p.213)
- regulations:** a principle, rule or law designed to control or govern behaviour; a government order having the force of law.
- regulatory instruments:** those given formal force of law such as continental local plans and codified (development) regulations.
- representation:** that which represents.
- reticulists:** the term used by Friend, *et al* (1974), which Faludi (1987, 95) defines as "*persons with a special aptitude for linking decision processes together in negotiations.*"
- 'rules':** see codified regulatory devices above.
- site type:** Researcher's classification of these
- SoSE:** Secretary of State for the Environment
- SoSH:** Secretary of State for Health
- SSSI:** Site of Strategic Scientific Interest (protected area)
- state:** Local, Regional or National governance.
- strategy/ies:** the use of skilful planning to secure a particular advantage or aim.
- tertiary property investment:** investment in 3rd level properties or locations, these being neither 'prime', as with, say, city centre locations, or 'secondary' as with, say, local area shopping parades, but possibly 'back street' or poorly serviced and located properties.
- threshold analysis:** recognises the contribution to aggregate patterns made by the concurrence of decisions within separate and identifiable decision making units and that barriers (thresholds) exist which limit the manoeuvrability in decision making (Hughes and Kozlowski, 1968, "Threshold Analysis", in Denman and Prodano 1972 p.15)
- 'third-party' interests:** may not necessarily have a legal right or interest in the project or decision, e.g. title or formal consultation, but are held by those who consider themselves to be impacted by the proposals, like neighbours, special interest groups, etc.
- time diagram:** approximates the period over which site use has changed, attributing various events considered important for this change and the related decisions and processes to certain periods over this time span.
- transparency:** easily understood or detected; guileless, candid, open.
- UDC:** Urban Development Corporation
- UDP:** Uniform Development Plan
- use of land:** ... the outcome of numerous decisions taken within a calculus of decision making units (Denman and Prodano 1972 p.17)
- virgin land:** land previously undisturbed, i.e. not subject to development works on, over or under.

Dutch terms

Art.19: Artikel 19 of the Dutch planning law permits applications to be considered if a new Bestemmingsplan (local plan) is under consideration. Permits can be given if the applications conform to the new B-plan, even if this is subsequently never approved or adopted.

Bestemmingsplan: legally binding local plan

B-plan: Bestemmingsplan

Cityland: fictitious name given to municipal land departments

compact city policy: as used in Holland, emphasises high densities in urban renewal areas, in-filling elsewhere, and developing housing on the urban fringe. The object is to make fullest possible use of existing facilities and infrastructure without placing extra burdens on the environment (M. Hoogerbrugge, January 1994, personal communication).

De Wet Geluidhinder: the 'sound nuisance' law.

DRO: municipal planning department

Hirum Wet: nuisance law

Marktco: fictitious name for development company

Meer en Beek: fictitious site location

'sound nuisance' law: De Wet Geluidhinder

Steenhuizen: fictitious name for municipality

wet: law

WMB: Law on Environmental Issues

WRO: spatial planning law / physical Planning Act

German terms

Bau.NVO: National Planning by-laws.

Baugesetzbuch: Federal Building Code

BauGB / Baugesetzbuch: book of Federal building laws.

BauONW: Länd Building By-law.

Bebauungsplan or B-plan: the local plan derived from the master-plan (*Flächennutzungsplan*), which itself has to take account of Regional and Länder planning. The Bebauungsplan is legally binding on everyone. Land uses not specified within it are not allowed (Dieterich, Dransfeld, and Voss 1991, 48).

FOAC: pseudonym "First Of All Company".

Grundgesetz: basic law of German constitution

Länder: federal German States

Landesbauordnung: BauONW - Land Building By-law.

LDC: acronym "Last Development Company".

SBNLC: acronym "Second But Not Last Company".

Sparkasse: Civic bank

WWDC: pseudonym "World Wide Hotel Company".

Italian terms

abusivismo: development undertaken without application or any reference to the 'rules' whatsoever.

amministrazione: municipal administration. In the Italian language this can mean all public bodies or individuals. So, applications can go through the council or the Giunta and Assessore (Il Ministero dei Lavori Pubblici, 1992, p.8)

Assessore/i: assistant mayors who serve as executives responsible for specific areas of administration. They may be elected by the council either from among their numbers or from outsiders (Tedone 1993).

cadastral: relating to the *cadastre*, the legal record of property holdings and values, similar to the English *Land Register*, but maintained primarily as an instrument for fiscal levies.

caducazione dei vincoli: cancellation of specifications under which land for structures of public interest (including residential services) must be acquired by a public body (municipality), by expropriation if necessary, within 5 years of the adoption of the PRG.

circoscrizioni: similar to UK 'wards' which represent the citizens interests in that particular area. Like English Parish Councils, they have a consultative role, able only to express opinions on problems, projects or efforts.

commercial plans: prepared every 2 years by the Commercial Commission specifying where activities, e.g. shops and hypermarkets, can locate. Commercial licences are required for the operation of any business, regardless of planning permission or zoned use. (IT-01/1 1993).

Commissione Urbanistica: Autonomous body of professionals appointed to assess urban planning issues and applications.

comunale: can mean both 'of the community' or 'of the municipality' (Dizionario Sandron della lingua Italiana).

Concessione Edilizia: building or development license. Under Art. 4 of Law 10 of 1977 the phrasing of the permit was changed from 'Licenza Edilizia' to 'Concessione Edilizia', to imply that the public body concedes a right to build which is not otherwise inherent in the land.

Commissione Igienico Edilizia: Health Commission.

Consiglio Comunale: Municipal Council

CORECO: Comitato Regionali di Controllo, the regional administrative agency. Per Lex 56/77, every municipal deliberation must be verified from CORECO.

delibera: Instruction as to what should be done. They have to receive the council's approval.

edilizia privata : private building dept.

Giunta: the group chosen by the electorate to govern city affairs. They need not be, and often are not, from the same political party. It comprises the Sindaco (Mayor) and a number of Assessore (elected councillors who serve as executives). Responsibility for various commissions administering the municipalities affairs is divided between them. Sometimes the electorate specifies which Assessore is responsible for a particular function, when alliances are made between individual members to promote a particular programme under the leadership of a named mayor. But they can also be appointed by the mayor or by the parties between them.

Indicazione Programmatiche e di Urbanistica Commerciale: (Programatic and Commercial Town Planning Indications.

IPUC:: Indicazione Programmatiche e di Urbanistica Commerciale, Programmatic and Commercial Town Planning Indications.

JV: Joint Venture commercial scheme.

Legge Autonomia Locali: law 142 of 1990, gives local Giunta greater local autonomy.

Lottizzazione: Parcelling land into serviced 'lots' or plots. Land owners may make their own "Piano di Lottizzazione" (P di L) to re-parcel building lots by developing infrastructure themselves.

NTA: Norme Tecniche di Attuazione, technical norms/standards for implementation of projects.

nulla-osta: a general certificate that there are no obstacles or impediments to some course of action proceeding.

oneri: (oneri di costruzione, oneri di urbanizzazione), a charge on new buildings and urbanisation, payable to the municipality on construction.

P di L: Piano di Lottizzazione; These are prepared by private landowners to divide an area into building lots and construct the infrastructure. Once approved by the authorities the owner is automatically entitled to obtain permission for building in conformance with the piano itself.

PEC: Piano Edilizia Commerciale, commercial buildings plan.

PP: Piano Particoloreggiato/i, detailed local plan/s

PPA: Piano Pluriennale di Attuazione, establishes the implementation timing related to plans

PRG: Piano Regionale Generale - municipal master plan - the general urban development scheme defining broad, overall land use.

projectist: person responsible for both designing and overseeing the management of an Italian project to ensure that it is built in accordance with all regulations, etc.

protocollo d'intesa: a legal way to get round the Italian PRG.

repartizione edilizia: building dept. for the quarter.

sentenza: proclamation

silenzio rifiuto : Refusal through silence

Sindaco; Italian Mayor

'tangentopoli' or 'tangenti': a form of corruption

TAR:/ Tribunale Amministrativo Regionale, Italian regional administrative court.

tertiary: offices & related services zone which allows minimum 50% offices and maximum 50% residential

USL: Unita Sanitaria Locale, the local Italian health unit.

UT: Ufficio Tecnico, split into department it handles municipal building, planning and related matters.

variante: variation to planned use

vincoli: specifications, specified public destinations.

volunta di fare: heads of agreement subject to contract

French Terms

ABF: *Architecte des Batiments de France* - national heritage architect

AFU: Association Foncière Urbain, is a management device under which all land is transferred to the commune who carried out all necessary infrastructure works, retain sufficient land to cover the costs of this, and transfer the balance of the land back to the original owners in proportion to their input.

atelier: bureau or office, usually of an architect, engineer or designer.

Code de l'urbanisme: national planning regulations.

commercial power: the ability to deploy finance and other resources and to marshal a range of knowledge, instruments and legal capacities in pursuit of the profitability and growth of the enterprise.

Commissioner of the Republic: after 1983 the powers of the Préfet were reduced and the post renamed this.

COS: Coefficient d'Occupation du Sol, or building ratio. Land normally has a COS of '0'. However, if 2 Ha. or more are owned then the COS is increased to 0.15.

dirigisme: central bureaucratic direction, control and state intervention

dotation globale defonctionnement: the global block grant to municipalities

dotation globale d'équipement: grant to municipalities for capital servicing costs

Droit de l'Urbanisme: The French Town Planning Law

DUP: Public Utility Declaration designating land within a defined area as being needed for such works and giving the right to buy and even expropriate all such properties.

'equipment': physical, social and environmental infrastructure, e.g. the facilities and services required for satisfactory development include schools & parks as well as roads and sewers.

gentrification: improvement in property which occurs through an influx of middle class residents to change the character of a previously working class area.

HLM: specialist social housing companies, similar to housing associations. They can build speculatively for sale.

PAZ: Plan d'Aménagement de Zone, the plans for the development of the ZAC territory.

PdeS: *Plan de Sauvegarde et de Mise en Valuer*, similar to conservation area plan.

POS: Plan d'Occupation du Sol, local plan governed by the Code de l'Urbanisme

s.a.: *Société Anonyme* (Limited Company)

Schema Directeur: A form of area structure plans

Secrétaire Adjoint : a municipal, regional or departmental civil servant who handles administrative matters.

SEM: see *Société d'Economie Mixte*

SDAU: see Schema Directeur Aménagement Urbain

Schema Directeur Aménagement Urbain (SDAU): as for a Schema Directeur but covering several communes.

Société d'Economie Mixte (SEM): organisations dedicated to the acquisition and equipment of land for local authorities - especially in housing, town centre renovation, and economic activity area. Being governed by private sector law they have several advantages over direct municipal involvement. They are able to be more flexible than municipal departments, for example in terms of accountancy and staff management; and their senior employees work on projects all the time, whereas municipal employees have few projects to follow at the same time.

UDr: zone is urbanisable on minimum 1,000m² plots.

ZAC: Zone Aménagement Concerté: concentrated planning zone which enables a global vision of an area to be implemented and controlled by making specific rules, drawing such new plans, realigning parcels, land division and "*droits à bâtir*", and constructing such new roads and other infrastructure as are necessary (Robert, 1994).

ZAD: Zone Aménagement Différé, fore-runner of the ZAC, often used for housing schemes.

Institutionalised obfuscation of decision making

**“ It is injurious to the public interest
to have any decision making process
exposed ”**

Andrew Leithhead
(office of the Solicitor General)¹
Scott Report; 1996

¹ Comment resulting from interrogation of Andrew Leithhead by Presley Baxendale for the Scott Enquiry. Reported in Freeway Films documentary programme for BBC 2, broadcast on 18th February 1996.

Introduction

- a background to study -

This thesis is about land conversion² in liberal democratic societies³. Generally it is concerned with government intervention to regulate and control this process. More particularly it investigates major private development projects in England and mainland Europe and considers whether decisions to permit these follow the 'rules'. Specifically it focuses on the equity, transparency and legitimacy of the decision processes involved.

Perceiving land as a natural resource which should be owned and managed for the common good, the evaluative position of this thesis is that planning systems should be based in equity⁴; that a central purpose of planning systems should be the fair treatment of interests, issues and power in land-use decisions; and that to achieve this the *process* of permit decision making should be truly transparent.

However, major tensions affecting 'equity' exist within liberal democracies. These threaten the *process* of planning, its ability to be transparent and its decision outcomes. Furthermore, international competitive pressures may cause development permits for major projects to be negotiated in ways which undermine equitable process. In England the flexible planning system can adjust to this negotiation, although whether in doing so it meets the above criteria remains questionable. But in mainland Europe, where conformance to legal plans is required, conversion⁵ outside the 'rules' is suspected. This leads to the hypothesis that, despite codification, in practice, decisions to permit such development on the continent are neither transparent nor equitable. This thesis reports on and discusses research conducted to investigate this.

1.1 The need for research

Over time, as the physical, cultural and economic environments relative to any parcel of ground change, so the possibilities for its use and use value also change. Development will depend upon how these changes are perceived by those with rights over this use. Government may seek to influence this development. One way in which they may do this is to plan and allocate what land may be used for, regulating when and how such development can take place. The purpose and form of these planning

² converting land from one use to another, usually by obtaining formal permission to do so and often thereby increasing its worth,; e.g. by obtaining planning permission to change agricultural land to housing land.

³ an extensive definition of '*liberal democracy*' is provided in the glossary.

⁴ Here meaning justice, fairness, and impartiality.

⁵ i.e. from one use to another

and regulatory measures may vary from place to place and country to country, represent different things to different people and exert varying degrees of influence over them according to their relationship with any land affected.

As several authors identify⁶, the institutional relationships surrounding land allocation and the regulation of development within the European Union (EU) are critical for determining the location, amount and form of major property development projects. Indeed, varying significantly across Europe, the requisites of land regulation and the institutional relationships of the property and development industry are now fairly central to EU objectives. For example they hold important consequences for cross border developments, investment and manufacture. They could also compromise the advancement of other policies, like those on the environment, especially where these require translation into the regulation of amount, location and form of land development⁷.

Whereas the Treaty of Rome was silent on land-use and planning, the December 1991 Treaty of European Union - better known as the Maastricht Treaty - refers explicitly to 'town and country planning' and 'land use'. Furthermore, having identified the process of land use authorisation (in Britain, planning permission) as a key stage at which policy intervention is possible to achieve its objectives, from 1st November 1993 the European Commission (EC) took legal competence over town and country planning.

Presumably rooted in open market economic considerations, the motive for this action is seen by Williams (1993) as both European integration at the macro-scale and the changing spatial structure and relationships within Europe due to infrastructure development and political changes. The Channel Tunnel, the fixed links between Denmark and Sweden and Denmark to Fehmarn in Germany, the Main-Donau canal and trans-Alpine tunnels are examples of the first. The enlargement of the Union, relocation of the German capital to Berlin and the choice of site for the European Central Bank, instance the second. Cross-border planning and the designation of Eurregions⁸ themselves represent another set of situations to be considered.

Although there is no suggestion that Europe's varied development plans and development authorisation procedures should be harmonised, this act empowers the EC to make proposals for planning legislation. Consequently, with policy development at the spatial scale of Europe as a whole, or of major cross-national regions of Europe, underlying various initiatives of the EC, in Williams' (1993) view in future *"...it will no doubt take policy initiatives directed at development plans and the development authorisation process, or for which the development plan system is the prospective policy delivery system."* If it does so then the ability of local planning systems to deliver land-use decisions 'in equity' take on even greater significance.

⁶ see for example. Booth (1989), Barlow (1991), Benfield (1991)

⁷ see for example European Commission (1994); James (1993), Williams (1996)

⁸ Regions designated at the European scale, i.e. not purely national regions

From a UK perspective, mainland European planning systems appear excessively restrictive. To protect individual rights and secure their equitable treatment, legal plans and codified regulations both prescribe the use to which land is to be put and proscribe against any change in this. In several countries the plan is not only legally-binding, but central to the development authorisation process. In contrast the UK and Ireland have a separate process for granting permissions, based on policy or indicative plans (Williams 1993). Despite mainland variety (1.3), this distinction is seen as the crucial difference between continental and UK planning and development systems (Dieterich, Williams, and Wood 1993/4).

However, UK knowledge of continental European planning systems is largely based on understanding these as theoretical structures, rather than on the realities of implementation. This deficiency was recognised in the European Commission's (1990) (EC) call for a "...*fundamental review of the principles upon which (European) town planning practice has been based.*", and by the British Department of the Environment's (DoE 1992) call for tenders to examine mainland systems and practices. In Newman's (1991) words "*What needs developing is our understanding of how systems actually work.*"

More specifically, with anecdotal evidence suggesting that continental regulatory regimes might be over-ridden to benefit partisan interests, what is required is an improved knowledge of individual continental land-use authorisation decision practices and whether the processes through which they operate are transparent, recognise the interests of all related stakeholders, and treat these equitably. These suspicions also reflect unease over the tensions inherent in the freedom and fairness supposedly present in European countries. They embody a concern for *just* administration and a search for *due process* linked to *transparency*.

Theory may be useful for organising thinking, developing research programs (Yin 1989 edn) and facilitating prediction⁹. But, if theory is not born out in practice, its value is considerably reduced¹⁰. As Keeble (1983, 105) remarks "... *if planning theory and development control practices do not match there is something wrong with one or both of them*".

1.2 Politics and planning

Most Western European nations claim to be liberal democracies and, apparently, many former Eastern Bloc countries now also aspire to this condition. Yet political philosophers of the eighteenth and nineteenth centuries would have considered the liberal and democratic traditions antithetical, principally because each understood and employed political power in fundamentally different ways.

⁹ see, for example Dunn (1994), Denman (1972), Fabos (1985), Hobbs (1989), Lichfield (1980), Odunlami (1986), McKay (1982)

¹⁰ In common practice the term 'theory' is used in at least 2 ways: (1) The theory is that 'x' causes 'y'; (2) In theory it is this, in practice it is that. Whereas in social science it is usual for the term to be used in the 1st sense, here it is used in the 2nd

Whilst, like any other kind of state, liberal democracies need power, they also curtail this very same power in order to maximise the individual's autonomy from the state (Markovits and Silverstein 1988, 5). Thus, with liberalism interpreted as freedom, proclaiming the primacy of the individual, and democracy as fairness, demanding the subordination of the individual to the collective welfare of the whole, European planning and development systems are surrounded by major tensions.

To cope with these tensions liberal democracies generally seek both to ensure the separation of the private and public realms and to overcome (or hide) their ambiguity over the use of political power. For Markovits & Silverstein's (1988, 6) they perform these 'miracles' through a faith in *process*. Indeed, in their view it is only via the firm institutionalisation - almost sanctification - of *process* that liberal democracies can legitimately curtail the "...randomness, secretiveness, and exclusive character inherent in the exercise of political power. Any violation of the formal arrangements of due process is tantamount to a frontal attack on the very nature of the liberal democratic system proper"¹¹.

In other words, politics is only legitimate if it takes place in public. It has to be transparent. Anything latent, hidden, or not readily apparent is dismissed by liberal theory as non-existent, or as a matter to be relegated to the private, non-political realm of social life. The political game must be open and accessible, its processes defined by strict rules, procedures, and public scrutiny to lessen distrust of political power.

Now planning, it is claimed, is political (Cullingworth 1994). Indeed, Faludi & van der Valk (1994) draw clear links between planning and politics across Western Europe. Consequently the public character of politics, the interplay between groups for control and use of the levers of power, is, *inter alia*, crucial to planning systems. With the built environment - the output of planning systems - seen by many as the result of conflicts, in the past and present, between those with different degrees of power in society, its 'social gatekeepers' (Pahl 1970, 187), "*A huge part of the justification for planning systems is that they resolve competing claims over the use of resources (especially land), attempt to balance an uneven distribution of power, and protect the interests of weaker groups.*" (Kivell 1993, 8).

Governments can intervene in the development process in a range of ways. At one extreme, planning is regarded as an integral aspect of governing (Faludi 1987) with regulatory, developmental, financial, and information & guidance measures seen by Healey *et al* (1988) as important land policy (planning) tools. To these Murray (1991) adds taxes and direct control of land when, as in Italy, planning powers alone are not enough. In that country he notes that grants and subsidies are also embraced with other fiscal policies as forms of development control. Even political promises may have control implications. Arguably, it is also possible to see such measures at work in UK Enterprise Zones (EZ).

At the other extreme planning is seen as a separate function of government (Wildavsky 1973) with Bökeman (1982) cynically claiming that politicians use their constitutional powers “...to produce (development) sites....to trade for tax-income and votes.”

Whatever the case, government structures have a major influence on the style of planning within each country. In some, like Denmark and Britain, public participation is an essential element (Williams 1984). In others opposition to planning is subsumed within the framework of democratic institutions by the “*politics of accommodation*”, as in Holland (McKay 1982). But, whatever the “rules”, if *due process* is usurped, freedoms can be violated and ‘democracy’ lose its fairness. As Markovits & Silverstein (*op cit.* p.7) found, any activity that seeks to increase political power at the expense of process and procedure often results in scandal. The tensions present in European liberal democracies raise concern over the ability of planning systems to deliver ‘equity’. To do so requires ‘impartial’ and ‘just’ planning processes, a *due process* which must be both secure and transparent.

1.3 The concept of ‘equity’

‘Equity’, as an ethical concept, is a major concern of this thesis. The term is used to convey the combined notions of procedural justice and fairness linked by impartiality. The concern is with how far the process of taking regulatory decisions about development rights reflects these qualities.

‘Equity’ cannot be wholly aligned with either freedom-seeking liberalism, or equality-craving socialism (Walter 1969, 7). Nor, despite anarchist contentions, can freedom and equality be seen as the same thing. Opposed to the concept of ruthless and unremitting struggle as the basic law of nature, Kropotkin, among others, asserts that survival of species is furthered by mutual aid. Humans, he argues, have attained primacy among animals in the course of evolution through their capacity for conscious co-operation¹². And co-operation, it is suggested here, introduces the need for fairness and the quality of being ‘just’. This springs from an individual inner sense of delivering what is properly due or merited. As Hume (1711-76)¹³ and Smith (1723-90)¹⁴ recognised and Ridley (1996) has recently rediscovered, it draws on the feelings of trust and sympathy which people bear to one another even when not bound by kinship or direct ties. Ultimately it leads to Kant’s (1724-1804) *categorical imperative* to “Act as if the principle on which your action is based were to become by your will a universal law of nature”¹⁵, and to Bentham’s (1748-1832) universal hedonistic ‘utilitarianism’ in which the highest good is the greatest happiness of the greatest number of people¹⁶.

¹¹ In Markovits & Silverstein’s (1988, 4) view, any explicit attempt to merge private and public realms is illegitimate. Furthermore any application of political power must be sanctioned by law.

¹² “Mutual Aid, A Factor in Evolution” (1890-1902) and “Ethics, Origin and Development” (posthumously published, 1924)

¹³ “Essays Moral and Political” (1741-1742)

¹⁴ “Theory of Moral Sentiments” (1759)

¹⁵ “Grundlegung zur Metaphysik der Sitten” (Principles of the Metaphysics of Ethics, 1785).

¹⁶ “Principles of Morals and Legislation” (1789)

Thus, 'equity' is distinguished from subjective, 'even-handed' justice and from Rawls' (1971) theory of 'justice as fairness'. Something may be fair but not necessarily equitable and 'equity' is not the same as equality¹⁷. However, these concepts of even-handedness and fairness are linked by the notion of impartiality. On the one hand it requires lack of prejudice in dispensing 'justice', on the other it means freedom from bias in personal choice. Both re-introduce Kierkegaard's *problem of choice* and highlight the conundrum for society between rationality, as seen by Dewey (1959-1952)¹⁸, and emotional, unanalysable 'quality' and undefinable 'goodness', as argued by Moore (1873-1958)¹⁹. The term 'impartiality' thus moves this thesis from theoretical philosophising toward enquiry of practice.

Grounded in this liberal democratic concern for equity, the view is also advanced that land, like other natural resources, is a common heritage rather than individual possession (George 1937; George 1947; George 1953). Contrary to the Lockesian²⁰ tenet, this means that land should be managed in the common interest and everyone, it is contended, should have equal rights of access to the process of taking decisions over the use of land as well as share in its produce.

To this end 'equity', in the context of planning systems, is seen as more than a system of supplementary rules and principles. It is a concept which appeals above temporal considerations to some universal law of nature. In this, empathetic human beings seek mutual aid through a co-operative order which protects individual freedoms, liberty and choice to secure greatest utility. 'Good', moral behaviour takes on an unanalysable, emotional quality in which 'equity' subsumes justice in process, even-handedness, fairness and impartiality.

1.4 'Competition' and planning

It is widely considered²¹ that local cultural considerations as well as local politics have a major influence on local land and property markets, development processes and planning systems. Operating in different national and regional contexts, they are subject to contrasting constraints imposed by distinctive values and traditions. This results in a variety of complexity, even though the broad trends across different countries can be similar (Goodchild and Munton 1985). This leads Erdman (1990) to see European property markets, in particular, as highly fragmented, with fierce competition not just between member states, but even within them. In their view, manipulating these markets, e.g. via the local planning system, is an objective of national, regional and local politics to such an extent that *"...in many respects parochialism rules."*

¹⁷ There are several meanings of 'equality', e.g. of input, of outcome, of opportunity.

¹⁸ According to Dewey, the good is that which is chosen after reflecting upon both the means and the probable consequences of realising the good.

¹⁹ In *Principia Ethica*. Moore argues that ethical terms are definable in terms of the word good, whereas "good" is undefinable. This is so because goodness is a simple, unanalysable quality.

²⁰ John Locke (1632-1704) reflects the British philosophical tradition that possession of property is a fundamental, natural right. The concept of 'freedom' is closely allied to property ownership and the notion of a property-owning democracy (Norton-Taylor 1982).

However, the ability of towns to compete via the supply of land and property for development is affected by the potentially pervasive effects of EU legislation. This gives fresh significance to considerations of relative national and more local power. The prospect looms of municipalities being caught in tripartite conflicts. For example, being caught between decisions taken under national regulations that do not accord with EU directives, local demands for participation in land-use decisions, and the power of international capital requiring immediate decisions. For example, every year in Britain alone EU environmental audit regulations could make up to 12,000 sites presently zoned for development, undevelopable (AIG 1992). If so, pressures for development could dictate re-zoning or conversion of, say, agricultural land. How other countries, like Germany, which has a shortfall of 1.5 million home sites (Dieterich 1992), and Britain, where a further 4 million are required by 2010, respond to this and other measures, will have significance not only for their own peoples, but also for developers, property investors, financiers, commercial enterprises and professional firms from other member countries, especially immediate neighbours and border regions. But the implications are much wider. While local governments need to be able to respond to such pressures in an equally robust way, countries like Italy lack the tools for assessment, preparation and control of their urban planning needs, necessary to enable them to compete on equal terms (Saccomani 1992). How planning regimes and the politics which surround their use interrelate with the processes of land and property development to promote or impede the EU's economic objectives is, therefore, a key concern. Highlighting the fact that almost no research on the unintended effects of economic integration in the area of land-use and planning has been conducted, like Bremme *et al* (1991), Williams (*op cit.*) argues that EU 'competition' will change the task of planners.

1.5 Challenging 'theory'

As noted (1.1) continental planning systems are intended to operate within a tradition of specific plan statements of what land is to be used for. In contrast, British regulations are seen as more flexible and, with UK plans expressing performance criteria as much as specific allocation, a high degree of administrative discretion is permitted (Adam Smith Institute 1983). In Goodchild's (1985) view this allows plan status to be varied by administrative direction, enabling developers to exploit *ad hoc* regulatory decision making via *negotiation*. He claims that this *negotiation* - for which there are no statutory rules or guidelines - has already become a recognised part of the UK development control system. McDonald (1991) goes further. For him whatever the purpose or whoever the beneficiary, negotiated planning agreements²², which occur purely at the administrative level, are becoming much more likely to be used as technical development control tools to restrict or regulate development in a more environmentally satisfactory way, than the use of conditions on permits. Extrapolating this

²¹ see, for example Thomas (1983), Shurmer-Smith (1990), McGlynn (1994), Larkham (1994), Kochanowski (1994), Brown (1993), Almond (1993).

²² planning agreements: UK regulations allow municipalities to link formal contracts for the provision of 'planning gain' by applicants to the grant of a development permit.

trend, Elson (1991) argues for negotiated agreements to be used in the UK to bring land forward for development, protect local environments and communities, create informal 'partnerships of commitment', and secure broad policy intentions in development plans.

Contradicting the notion that continental planning systems are legally binding and demand conformance, there are also indications that flexibility may exist in some mainland countries. Explaining how Spain has begun the process of building informal 'flexibility' into their planning systems, Riera, Munt & Keyes (1991) highlight the process in Sabadell "...in which both parties (can) argue for some form of gain" since "...it is common for negotiation to be opened between developer and municipality to consider the modification of the 'plan generale'." Benfield's (1991) study of 'planning gain'²³ in France detected similar tendencies, hardening suspicions toward theoretical²⁴ understandings of mainland planning systems. This included the general presumption that their objects and construction were 'equitable'. In his view, whatever the formal 'rules', the level and extent of personal contacts there seemed at least as - if not more - important in gaining 'quality'²⁵ development permits, than in England. Where a major private project was proposed, i.e. if its' size was of significant importance for a municipality, then it seemed possible to obtain a development permit.

If these tendencies are widespread, the roles played by ruling power elites within urban planning and development take on added significance. Although UK and Continental property and development industries are accepted as different in form (Erdman 1990), the theoretical differences between English and continental systems may be more marked than those existing in practice. The work of Castells (1978), Dahl (1961), Elkin (1974), Mills (1959), Mosca (1960), Pahl (1970), Saunders (1979), Simmie (1981) could be reflections of a much more widely represented reality.

If these suspicions are correct, then despite the "rules", planning processes are potentially being usurped, freedoms violated, and 'democracy' losing its fairness. This emphasises the need for deeper knowledge of how such systems work in practice, how such practices relate to theory²⁶, and the importance of both for EU policies. But it also narrows this interest from land allocation in general to the grant of development permits for important private projects. Concern centres on continental *Development Control* practices.

1.6 A hypothesis

Challenging the view that mainland European planning systems are transparent, well regulated, and

²³ planning gain: the securing of some benefit, like road improvement or social amenity, by a municipality from a developer under a formal contract as a condition of planning permission being granted. Officially this is supposed to be directly related to the development concerned. See also 'planning agreements'.

²⁴ Theory is not the same thing as formal 'rules'. Although in social science the term theory is most often used in the sense that 'x' causes 'y'; here it is used in the sense that in theory it is this, in practice it is that.

²⁵ By 'quality' is meant the maximising of profit potential from any development site by gaining permits to develop which enable either or both the use value to be improved and costs minimised.

²⁶ Here the term 'theory' is used in the sense that 'x' causes 'y', both that the 'rules' ensure *due process* and transparency and that bureaucratic process determines development outcomes.

deliver neat, tidy, equitable development solutions via permits which conform to pre-determined plans, in the light of these considerations, it is now hypothesised that :-

“Influenced more by politics and markets than formal ‘rules’, decisions to permit major private developments under mainland European planning systems are neither transparent nor equitable”

... posing the question:-

“What is the nature of planning systems and how are they practised in mainland Europe?”

1.7 Focusing the research task

This consideration falls within two main areas of interest, one ethical (equity) the other practical (land use). Diagram 1, p.10 illustrates how these are both set within a broader environment encompassing history, philosophy, politics, legislation, etc. and how concern for planning’s purpose, policies, access, participation, benefits, etc., fit and overlap within them. These areas of concern have been reduced to focus on local place, via specific development permits, and local community, via the interests of historical stakeholders in that place²⁷. Within the area of overlap of these two innermost foci lie development decisions affecting local communities. Since the need for an improved understanding of mainland European practices remains, this combined focus is the area chosen for empirical research. As (Healey 1983, 256) remarks *“There is very little evidence of the political articulation of community needs in relation to land and development, except ideologically in the discussion at national level on the land value issue “*

1.7.1 Change, choice and decisions

At least two key choices or ‘events’²⁸ would seem to be involved in permit decisions. First the ‘change of use’ from a previous use. Then the ‘choice’ of use, to something else. Sometimes these occur at the same time, but often they do not. Indeed, allocation may result from several separate decisions at different points in time by different actors, for example owners, developers, financiers, planners, politicians and others. These decisions may not necessarily have development of the land as their objective but nevertheless lead to this, for example as with decisions over redundancy of use, owner retirement, or road and other infrastructures. Furthermore, as Thomas *et al* (1983) note, some of the parties to the planning and development process seek to promote and others to control this process, with their roles shaped by rules governing *“the control of people over people.”*

This all suggests that ‘equity’ in development permit decisions is potentially unclear, both in relation to inputs and outputs. It seems only to exist via an ill defined general ‘public interest’ which, with ‘sustainability’ and ‘subsidiarity’ incorporated into European Union policy (Williams 1993), should now subsume not merely local level equity, but *intergenerational* equity, if the implications of sustainability are to be given proper consideration.

²⁷ like residents, property owners, business and commercial enterprises, community services, and so on.

²⁸ Here an ‘event’ means the occurrence of some particular act or action, the attainment of some particular state, condition or circumstance.

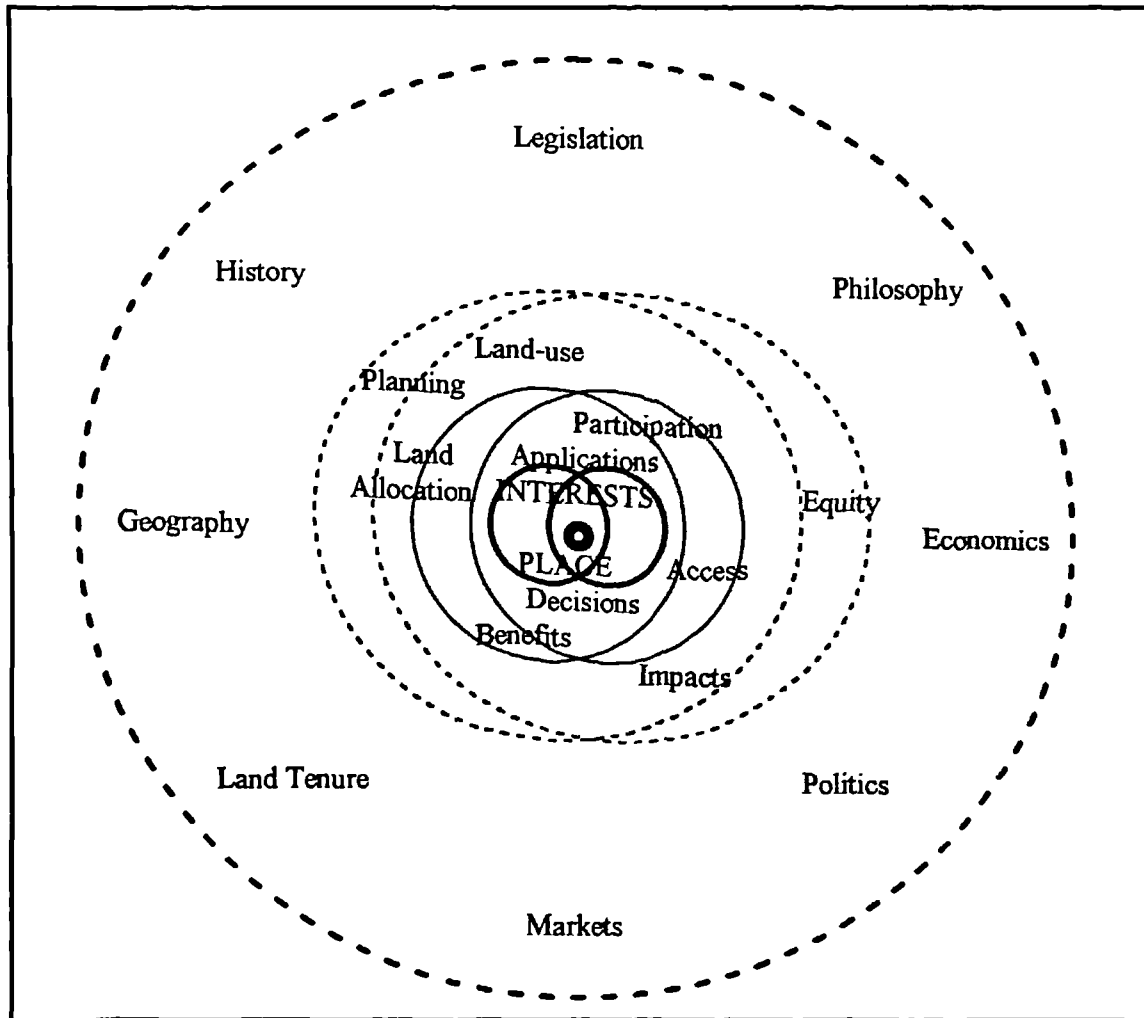


Diagram 1 *Focussing the research (source: Author)*

1.8 Organisation

This chapter has presented an overview of the concerns which led to this work, its relevance to Europe, established the hypothesis and the need to research this. To verify this need, Chapter 2 reviews the available English language literature to assess:-

1. the nature of the development process and planning systems
2. the purposes of planning systems and if these are equitable
3. the equity of 'rules' governing land-allocation & development in mainland countries
4. the extent to which mainland decisions to permit or refuse development follow these 'rules'
5. the practices which lead to these decisions and whether these are transparent and equitable

Faced with an inconclusive outcome, Chapter 3 seeks further clarification by using the English system as a bench mark to compare *Development Control* systems in selected continental countries. In doing so it provides material which helps Chapter 4 to consider the interrelationship between the development process and the development application and decision process.

Chapter 4 revisits the hypothesis in the light of the literature. This reappraisal leads to revision of the research questions which in turn set the parameters for the research project. With the main thrust of enquiries focusing on the grant of development permits, given the requirement that continental plans allocate land and that the route to development is commenced by reference to them and related rules, the process of land use authorisation remains the research focus. Explanation of the project design

includes a discussion of why it was felt this needed to be so extensive, why multiple case studies were chosen as the most appropriate method to secure in-depth material, how it was believed these would facilitate direct conduct of the research across all target countries, how the English pilot studies were used to assess this, and the improvements made to the design for use on the mainland.

With the research task established as being both to examine the processes by which formal 'conformance' is addressed in mainland countries and to determine whether interests in these processes undermine whatever purposes the plan and 'rules' have, analytical tools to focus this are then established. These include heuristic models of permit decision processes under different 'rule' structures, a heuristic matrix which draws together concerns over land allocation decisions and partisan interests within which decisions to grant development permits can be located in relation to the influence of these interests, and tabular assessments of transparency and equity.

Since this type of social research often takes the form of a 'voyage of discovery', although mindful of the need to remain focused there was also the need to retain an open mind, conscious that 'the facts' might, and indeed did, point up relevant considerations beyond those needed for simple falsification. This entailed what proved the difficult, yet desirable, process of progressively seeking out a broadening range of information at increasing levels of depth, before re-visiting the data for further analysis. Given the limited documentation, selective memories, partial perspectives, and distant recall which often form the incomplete records of social data, by working backwards through this welter of material, bit-by-bit it became possible to link otherwise disparate details and achieve a sense of substance.

In the following chapters this empirical material is presented and analysed initially on a country by country basis, except for the 2 Central European countries which are combined. Chapters 5 to 11 present the research findings for all countries and, using the pre-determined frameworks, give first and second level analyses. Where appropriate, data is cited by country, case and reference number, e.g. (E-07/2). Informants positions may be seen by reference to Appendixes 7 & 8, but individual identities are protected to preserve anonymity. To assist the reader, much of the case material is supplied as in text illustrations, minimising the need for constant references to Appendixes. Numerous cross references are made between sections and chapters, these being indicated by the heading number, e.g. (1.4.3) or abbreviated chapter number, e.g. (Ch.4). Fairly liberal use is made of illustrations, diagrams, models, figures, tables, highlights and quotations, as aids to explanation.

Chapters 12 to 16 then take a cross cutting approach in synthesising the information obtained, treating this in accordance with the categories which emerged from the findings themselves. Composite charts, tables, and models of two similar emergent practices, are used to represent and analyse this data in producing an assessment of European 'decision making in practice'. This is done under 4 chapter headings, these being derived from the sub-research questions. Each chapter first does this factually and descriptively before considering the material conceptually and theoretically. These

higher levels of analysis combine earlier forms of presentation with a regionalised basis - England, Mainland EU, and Central Europe. This enables comparisons to be made between the continental regions and the English 'home' base cases while still noting points of special interest or significance in and between countries. In the final syntheses these are generally conflated to compare 'Continental Europe' with England.

Having validated the hypothesis through the foregoing chapters, Chapter 17 consolidates their material into a discussion of European planning and development control trends. The importance of the findings for the future of planning as a discipline and its interrelationship with politics, markets and 'rules' are considered. By using issues raised in this present chapter as discussion headings, Chapter 17 is able to consider the relationships which the practices uncovered have with these. Thus, the initiating concerns, extant theory, project design, empirical evidence, analytical assessment, and conjectural theorising which form the body of this thesis are linked through a stream of argumentation.

Throughout these pages several devices are employed to ease the task of the reader. Numerous *footnotes* provide explanation and clarification of references made in the text, for example where foreign terminology is involved. An extensive *Glossary* collects those terms, including abbreviations, most often referred to or needing more extensive definition, and detailed *Appendixes* allow the reader to refer to the raw data in tabular form, consider examples of the interviews which produced piercing informant evidence, gain background information on Central European planning, and generally to obtain quick clarification on relevant areas. Sometimes *percentages* are used to aid comparison between figures, although not for quantitative assessment.

1.9 Caveats

Throughout these pages quotations are used to highlight particular points and more generally illustrate the text. Where these originate from interviewees they should be read in context and as part of the overall area under discussion, not in isolation. Although care has been taken to screen out informants' personal bias and hidden agendas in the use of these, such caution will help the reader to obtain an overall balanced view.

Although this study may be considered large for its type, compared with the total number of application decisions taken throughout the countries concerned each year, it is minute. The observations drawn can, therefore, only be considered indicative.

Written from an English perspective, this thesis looks 'across the Channel' to mainland Europe. Because situations may have changed since the research was carried out, reporting of cases and some parts of the discussion are in the past tense. However, even though this leads to some apparent loss of immediacy, there is no reason to believe that the findings and observations are not other than current and of immediate contemporary relevance.

Development, planning and regulation

- a review -

To understand the planning and regulation of development, it is useful to understand the process of development itself. Drawing largely on Anglo-American literature, this chapter considers this process, models the dynamics of systems for regulating this, and relates debate over planning's purpose and form to interests in land use. By exploring planning's historical nature, general theories, principles and purposes, it expands on aspects of the proposition advanced in the *Introduction*, identifies differences in national systems, and considers if and how they can deliver equitable decisions transparently.

Planning systems are about more than land-use. While they intervene to direct this, they are also concerned with development rights; with the equitable resolution of the tensions between interests in these rights and between them and those policies which affect them. Different types of implementation and control systems are used to give effect to such resolutions. Some, as in England, do this by separately assessing each development proposal, usually against some form of guidance plan or other criteria. Others, like the continental countries instanced, rely on development conforming to legal plans which specify what can be built, where, when, and for what purpose. Chapter 3 looks more specifically for operational differences between these system 'rules' in present day Europe.

2.1 The dynamics of planning systems

To place this investigation in context it is necessary to understand how planning systems have evolved (Healey 1972, 266); to recognise the ideologies and forces which shape them, appreciate the interests and issues behind their application, and relate the roles and behaviour of the actors and agencies involved and the power relationships between them.

Adopting Thomas *et al*'s (1983a, 213) definitions for regulations, plan and policy²⁹, Diagram 2, p.14, models the dynamics of planning (and other) control systems as an aid to discussion. Seen as being more an iterative than linear process, from philosophies grow political ideologies which, via political debates, lead to the development of policies and regulations. These combine in the production of

²⁹ Thomas, (1983, 213). defines a regulation as setting out standards or performance criteria for carrying out policies in a specific situation; a plan as outlining how policies should be applied with respect to a specific location or a cluster of inter-related locations; and a policy as a statement of intent by an authority about how it intends to handle particular issues in the future.

'plans' and collectively become the instruments of control. Through government and private action these 'rules' lead to spatial and urban outcomes. Reflected through omni-present economic markets which pervade the system, these outcomes feed back into philosophy and ideology. This may lead to changes in policies and regulations as well as politics (and government), giving rise to new outcomes in a repeat of this cyclical process.

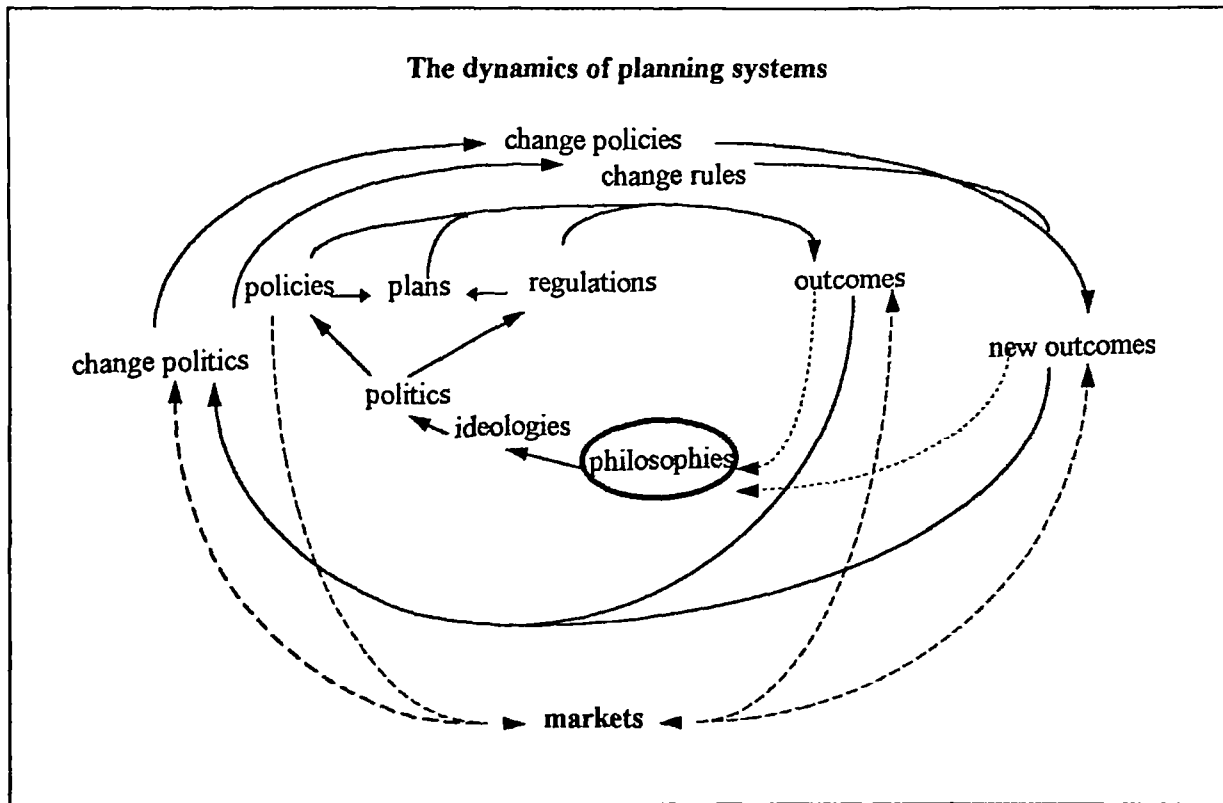


Diagram 2 The dynamics of planning systems (source: Author)

2.2 The development process

Land is subject to a continuous stream of decisions over time³⁰. Within this stream the development process may itself be seen as a flow of public and private operational decisions (Thomas et al. 1983a, 207) in which adjacent developments and changes in policy, can combine to encourage or even retard the potential of a piece of land coming forward for development (Harvey 1981; Lichfield 1956). In Watson's (1992) view the process effectively commences when 'maturing circumstances' and the *perception* that a piece of land could have potential for development, come together.

There are numerous models of this process, often inadequate short verbal statements or flow diagrams, presented mainly as linear sequence 'maps'. Many embrace a large number of stages, wide range of possibilities and feedback loops. Most postulate the development process as a rigid sequential framework, with a definite beginning and end. In so doing they fail to capture either its cyclical nature or the diversity and flexibility that characterise the development industry. They also isolate each development from subsequent events, the rest of the built environment and external factors, such

³⁰ See, for example, Harvey (1987), Leung (1987), Lichfield (1980), McNamara (1988), North (1987), Selman (1992), Goodchild (1985), Healey (1983), Chapman (1988), Ambrose (1977), Barrett (1983), Denman (1972)

as government policy, availability of finance and demographic change (Gore and Nicholson 1991).

| Gore & Nicholson | Healey | Explanation |
|---|---|---|
| Sequential or descriptive approach (Cadman and Austin-Crowe 1978) (Ratcliffe 1978) (Punter 1985) (Barrett, Stewart, and Underwood 1978) (Gore and Nicholson 1985) | Event-sequence models (Cadman and Austin-Crowe 1978) (Goodchild and Munton 1985) (Lichfield 1956) (Gore and Nicholson 1985) (Couch and Fowles 1990) | 1 Depict development process as a chronological sequence of stages, at each of which certain events occur. (G & N) Deriving from estate management, they focus on the management stages in the development process. (Healey) |
| Behavioural/decision-making approach 2 sub categories:- <ul style="list-style-type: none"> autonomous actors mutually dependent actors (Bryant, Russwurm, and McLellan 1982) (Drewett 1973) (Donnelly, Chapin, and Weiss 1964) (Weiss et al. 1966) (Goodchild and Munton 1985) (Ambrose 1977) (Ambrose 1986) | Agency models (Craven 1969) (Kaiser and Weiss 1970) (Drewett 1973) (Bryant, Russwurm, and McLellan 1982) (Goodchild and Munton 1985) (Barrett, Stewart, and Underwood 1978) (McNamara 1988) (Lauria 1982) (Rydin 1986) (Massey and Catalano 1978) (Form 1954) | 2 Emphasise roles of different actors and the importance of their decisions to smooth operations. Often retain sequential format, but events secondary to decisions. (G & N) Focus on the actors and their relationships in the development process. Developed primarily by academics to describe this from a behavioural or institutional viewpoint. (Healey) |
| Production based (Boddy 1982) (Harvey 1978) | Structure models (Ambrose 1986) (Boddy 1982) (Massey and Catalano 1978) (Ball 1983) (Harvey 1985) | 3 Portray development process as a specialised form of production activity, seen from the macroeconomics perspective of the economy as a whole. (G & N) Grounded in urban political economy, these focus on the forces which organise the relationships of the development process and drive its dynamics. (Healey) |
| Structures of provision approach (Ball 1983) (Ball 1985) (Ball 1986b) (Ball 1986a) | Equilibrium models (Evans 1987) (Cheshire and Sheppard 1989) (Skaburskis 1988) (Hooper 1985) (Ball 1983) (Leung 1987) (Soja 1989) | 4 Contends that different development types are characterised by different institutional, fiscal & legislative frameworks, ruling out a generally applicable model. Each development is seen as having a distinctive 'structure of provision'. (G & N) Assume development activity is structured by economic signals about effective demand, as reflected in rents, yields, etc.. Derive directly from neo-classical economics. (Healey) |

Table 1: Classification of models of the development process according to Gore & Nicholson and Healey

Table 1, above, summarises two major reviews of, in total, 32 such models conducted by Healey (1991b) and Gore (1991). Both conclude that no model is satisfactorily comprehensive. For example

the models either concentrate overly upon the importance of the developer³¹, e.g. Kaiser (1970); display only one of the many chains and combinations of agents that might characterise land allocation, e.g. Bryant (1982); consider land-use allocation primarily from the planners perspective e.g. Goodchild (1985); lose this allocation in the construction and marketing stages of development e.g. Ball (1986b) or lack the fine detail adequately to recognise and appreciate this process, e.g. Ambrose (1986). The two reviews do not agree on the classifications of the processes described and only five models show land allocation as a distinctive part of the process.

This may imply that land allocation is more orientated to process and policy than plan and conformance (Friedman 1987a,349), but this might be expected since, in the main, the models are Anglo-American orientated. While this makes them of less direct value to this study, it does allow the possibility that continental development may follow a different process. Thus the models form a useful basis for comparison, for example in identifying three broad types of generally recognised land policy measure - regulatory, developmental, and financial³².

2.2.1 *Sequence in development*

Commencing when existing use has become transitional and land has acquired potential for (re)development, the sequence of events is clearly very important. Several models³³ see the developer as catalyst and key co-ordinator for land conversion, with events depending upon developer decisions.

- | The 7 elements of land development |
|---|
| 1. the 'maturing of circumstances' that makes possible a change in the use of land, for example the construction of a new road or the selection of a settlement for expansion |
| 2. purchase of the land by a person prepared to develop it |
| 3. preparation of the land for development, including both 'physical' construction work and 'abstract' operations such as establishing legal title to the land |
| 4. preparation of the development scheme, including obtaining all the necessary consents, especially planning permission |
| 5. arrangement of finance to carry out the development |
| 6. construction of the development scheme |
| 7. its occupation by either the developer, a new owner or tenant |

Figure 1 *Goodchild & Munton's 7 elements of land allocation and development*

Activated by perceptions of potential yields, the developer assembles the inputs to production, organises the production process and markets the product. However, Lichfield (1980) sees these events as being orchestrated by a range of actors - owners, developers, politicians, professionals, financiers, etc. - who combine land, labour, finance and ideas within a framework of market pressures and regulatory rules. Since this process cannot proceed without agreement between these parties,

³¹ 'developer': a person or organisation owning or controlling the necessary resources (land, finance, knowledge) who has the idea's, motivation/s, opportunity and capacity to construct a project.

³² See Darin-Drabkin (1977), Lichfield (1980), Scott (1980)

³³ see, for example, Craven (1969), Kaiser (1970) and Drewett (1973)

Goodchild & Munton (1985) introduce the concept of negotiation between them. Breaking the process into 7 elements around 2 key events - site identification and process initiation (Figure 1, p.16), they give key roles to landowner, developer and planner. One or more of these have to decide whether or not to proceed at each stage. If they decide not to do so, then the project is either revised or abandoned.

2.2.2 *The dynamics of development*

Barrett *et al* (1978) group such activities and decisions into three sets of 'pipeline' events (Figure 2, p.17), each corresponding to separate sides of a triangle.

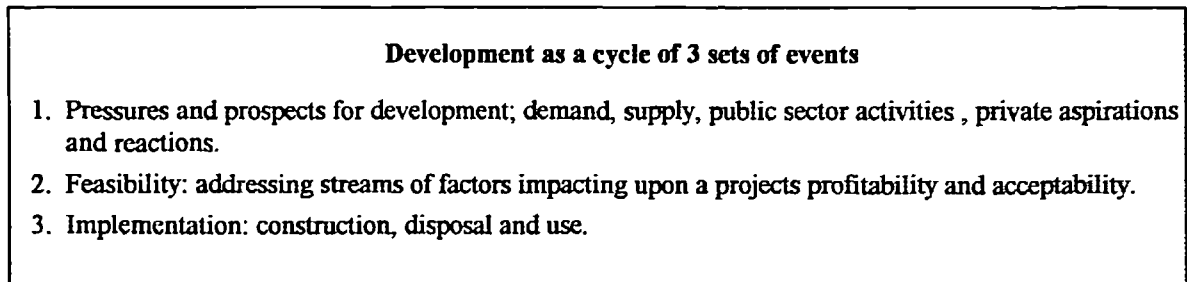


Figure 2 *Barrett et al's 3 sets of 'pipeline' events in the development process*

Envisaged as a dynamic spiral, with relationships between the elements able to change over time, a new pattern of development emerges at the end of every cycle.

This provides the starting point for Barrett & Whiting's (1983) identification of 5 principal actors in development (Figure 3, p.17), although none of these roles is necessarily performed by a particular type of agent. Indeed different functions may be combined in several ways, e.g. developer & investor, builder & developer.

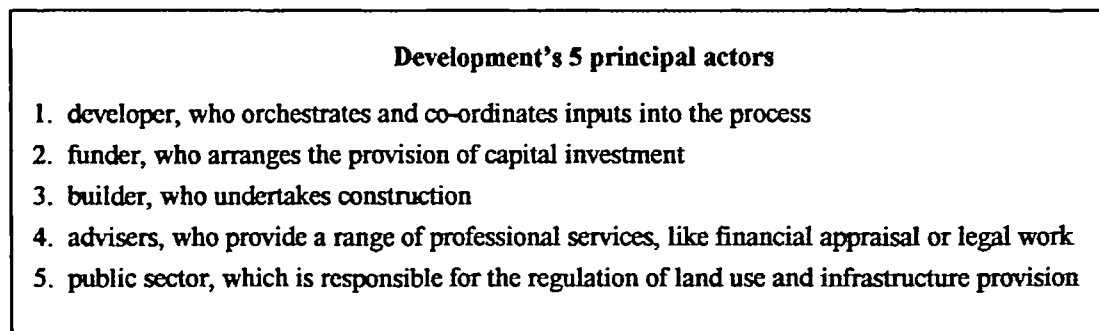


Figure 3 *Barrett & Whiting's 5 principal actors in the development process*

Thus the development process may be viewed as a series of functions or activities that bring together a range of resources and the agents that control them. If the process operates successfully, control of different resources by different actors brings about mutual interdependence between them. In other words, "*development is a process of 'resource exchange' between agents*" (Gore and Nicholson 1991).

2.2.3 *Interests in Development*

The resultant relationships and decisions between various actors and agencies are embraced by, for example, Bryant's (1982) closed model. This classifies actors either as primary decision agents,

having direct interest in the land; or secondary decision agents, with only indirect interests. These multi-connected, interest related decisions expand the context of pressures for change and outcomes.

By placing the process inside a 'switched circuit'³⁴, Ambrose (1977) envisages interactions between all the above elements leading to both different types of development and patterns of investment. However, the flow of money, political power, and/or materials, needed to 'energise' this process may be diverted at key 'switch' points into other economic activities. This enables finance capital to override controls and dictate change, making "*planners ... relatively powerless against these forces*" (Morrison 1992). Indeed, Watson (1992) indicates how informal, non statutory, policies may amend formal plans and policies via negotiation, while the general public remains peripheral, either as individuals (savers, voters, etc.) or pressure groups (Gore and Nicholson 1991). This points up the work of institutional analysts like Cadman (1978; 1991) and Ratcliffe (1978), who depict the development process as a chronological sequence of managed stages. Despite often being heavily descriptive, they show the importance of agencies and the need to understand their institutional form and relationships. Although economics orientated theorists³⁵ tend to treat these agencies as homogenous entities, institutional analysts³⁶ differentiate between them, permitting them different interests and motives. Recognising the relationships between developers and other intermediaries, they also note how developers interact with the State. This is something ignored in both simple neo-classical economic demand-supply models and the Marxist literature, which regards the State as playing a mediator's role while capital flows through the State between the primary and secondary circuits (Harvey 1985).

For example Ball (1983; 1985; 1986a; 1986b) sets out five propositions for land and property development. In this both the physical process of creation and transference to occupiers and the social processes are dominated by the economic interests involved. The State, representing the 'public interest', is seen as just another competing interest (Morrison 1992).

2.2.4 The development application

Although most models of the development process indicate a 'regulatory loop'³⁷ through which projects must pass in order to obtain a requisite permit or permits, the centrality of the permit application in land conversion appears sidelined. While recognising the importance of change in value and change in nature of land as it transforms from one use to another, they tend to pass over the fact that this turns on the process of authorisation. Some, like Goodchild & Munton (1985), do identify the planning permission as an important step, even linking negotiation to this. But in general they appear to ignore the link between a vast range of circumstances and consequences and land's passage through this complex 'regulatory loop'. While the development process may now be envisaged as spanning

³⁴ Ambrose utilises the metaphor of a electrical circuit through which the development current flows, being 'switched' between different possible paths at a variety of nodal points.

³⁵ e.g. Boddy (1982), Ball (1983) (neo-classicist), Ambrose (1986), Harvey (1985) (Marxist)]

³⁶ e.g. McNamara (1988), Rydin (1986), Healey (1991b)

³⁷ iterative regulatory 'hoops' through which applicants and would be developers must pass.

the gaps between politics, 'rules', markets and change, evident in the model of the *dynamics of planning systems* (p.14), applications form the nexus between development proposals and implementation.

The brief explanations of the models given in Table 1 evidences their concern with event chronology, actor & agency decisions, organising & driving forces, inter relationships with the macro-economy, and development type impacts. This helps to understand the development application in the multiple contexts of rights, relationships, interests and events. Each application is the outcome of numerous decisions around these and each such decision has to confront several barriers or 'thresholds' limiting manoeuvrability in decision-making (Hughes and Kozlowski 1968). In effect, each permit application marshals these. It concatenates them with the information networks between actors which Ratcliffe (1976) believes identify the links between site identification, the scope of the search for this, agents of introduction, development type, and subsequent preliminary appraisal. Likewise it draws in the key events which Goodchild (1985, 178) considers light the route through which land passes to development more clearly than key actors.

Denman & Prodano (1972) provide a further clue to understanding the models in Table 1 in terms of the application, arguing that the lower level of authority over the development process is provided by those who hold property rights over the land and who, in consequence, take positive decisions for the use of it. Independent of development rights³⁸, for any change to occur the freehold or leasehold interest in the site must be capable of being owned, or at least controlled, by those who are prepared to develop it. In their view this makes *motive* all important when dealing with land. While they place "*...the aims of the entrepreneur well down the list in (their) order of preference*" (*op cit.* p.57), since outputs rely on developers, who are usually entrepreneurs, it must be presumed that applications are either made in conjunction with them or with them in mind.

So what are these 'regulatory loops', plans and policies, which applications have to address?

2.3 The historical nature of planning

Before the 19th century, an artificial, rational ordering of space practised by architects and engineers (Houghton-Evans 1980), sought to provide 'Social Utopias' in which social purpose and community aspirations were the overriding considerations (Cherry 1979). From the 19th century, and in order to address the emergent problems of industrialisation, the ideology of scientism replaced this (Friedman 1987b). This led to a classic period when the dominant idea was that plans needed to be based on scientific evidence and that, once made, simply needed to be implemented (Faludi and van der Valk 1994,7). By the turn of the 20th century, planning practice was becoming increasingly techno-legal and zoning was introduced as a non-physical³⁹ or legal device to deal with land-use issues (Toll 1969). Since then land-use planning has been greatly expanded by many additional legal devices and numerous economic, social and policy-planning actions (Fabos 1985,91).

³⁸ notionally nationalised in Britain by the 1947 Town and Country Planning Act (see Chapter 3)

Further changes occurred around the middle of this century. Gradually the British system moved away from 'blue-print' zoning to a system based on discretionary control, with the development plan used for guidance and no longer legally binding. But many other countries moved in the opposite direction to strengthen zoning in accordance with strong regional plans as a higher order of planning⁴⁰. Within the context of political control, differences between northern and southern Europe and between command and market economies progressively took shape⁴¹.

Interpreting planning's evolution in terms of the dynamics model (Diagram 2, p.14), development outcomes linked to social and market change, seem to have pushed any philosophical or ideological ideals into the sphere of short term politics and politicking. Thus, increasingly, formal 'rule' frameworks are seen as set in political arenas.

2.3.1 *Planning as mediation and bargaining*

Because projects were not simple, replicable units and because negotiation over infrastructure and payments for this was necessary, in England at least, the zoning approach often evolved into mediation and bargaining. As Faludi (1987, 171) notes, in the ordinary course of operational decision-making not all effects are taken into account. Agencies are under pressures of time and, as Popper (1981) shows, this pressure is due, amongst other things, to the common problem of starving them of the manpower necessary for the adequate discharge of their functions.

In Britain this resource shortage accompanied, if not resulted in, a shift in the planner's role. In an attempt to achieve flexibility, development control officers began to rely on precedent rather than outdated development plans (Underwood 1981). As a result planners in both planning authorities and consultancies became knowledgeable and skilful mediators in the conflict among competing interests over the use and development of (housing) land (Healey 1993a). For Healey (99-100), since 1947, and particularly over the past two decades, this has led to British planning drifting away from a comprehensive social and economic agenda. As if to address Schubert's (1960) 'realist' version of the public interest, it has become a mechanism for mediating conflicting values and interests in land-use and environmental change. In itself, this has become ever more complex. Forester (1988, 232) regards such a shift positively. In his view it provided 'systematic opportunities for effective bargaining' since *"Because issues are uncertain, planners ... have systematic sources of influence. Because issues are ambiguous, planners ... have sources of discretion. Because issues are multiple, planners face opportunities for trading across issues."*

Mediation and bargaining have thus become techniques for delivering planning decisions. But the equity of doing so is left in question, depending as much on whose interests come within the process as much as on how this operates. Healey (1983, 242) makes this clear. In the UK she sees large de-

³⁹ i.e. it dealt in land rights

⁴⁰ The UK also had regional plans into the 1960's.

⁴¹ see for example Davies (1993), Faludi & van der Valk (1994)

velopment interests as sufficiently knowledgeable to treat development plans as a “*negotiative counter*”. Meanwhile applicants with less experience of the *development game* may find that for them the plan becomes a framework within which they are required to fit.

2.3.2 *New Principles in planning*

In recent years, especially since the United Nations Rio de Janeiro ‘Earth Summit’ of 1992, two new principles which directly affect planning have gained ground: *Sustainability* and *Subsidiarity*. Space does not permit a full discussion of these here, but both have a close relationship with the principle of ‘equity’ and both have been formally adopted by the EU and member countries.

The concept of *Sustainability* is essentially broader than that of stability, upon which notions of blue print plans and zoning depend (Nijkamp and Perrels 1994). It requires a balancing, harmonising approach to land and resource use, taking into account intergenerational considerations. According to Marahrens (1991) it has led to the establishment of the new discipline of *urban ecology* which embraces principles comparable to those formulated in the Gaia concept by Lovelock (1979).

Concerned with decisions, *Subsidiarity* is seen by Handy (1993) as a moral principal. Present in the Tenth Amendment to the US constitution, it means that “*It is an injustice, a grave evil and disturbance of right order for a large and higher organisation to arrogate to itself functions which can be performed efficiently by smaller and lower bodies.*” (Papal encyclical, Quadragesimo Anno of 1941). Handy (*op cit.*) expresses it more simply “*Stealing other peoples responsibilities is wrong*” In theory this should promote English localised flexibility and debase mainland hierarchical conformance approaches to land-use planning. Paradoxically, as will be seen in the following chapters, English planning may be ‘flexible’ but not local, while continental systems may be inflexible but local.

2.3.3 *English -v- Continental approach*

The preceding discussion reveals several differences between English and Continental approaches to planning systems and discipline. Figure 4, p.22, presents these. Arrows indicate movement and trends.

From common European origins English planning has adopted an evolutionary, discretionary approach to regulation. Its flexibility now encourages access and participation, but proves indeterminate, and leaves local urbanisation possibilities unclear. Meanwhile, continental determinism strengthens control via administratively binding hierarchical plans and legally binding local plans⁴². It provides clear, strong routes to land-use decisions, but restricts access to pre-determination and imposition.

This comparison suggests sharp differences in political approach. For mainland countries the ballot box and appeals to law seem the main determinants of democratic fairness, freedom of access and

⁴² Hierarchical plans impose an administrative requirement for lower level plans to be made in conformance with them. Detailed local plans may be made legally binding instruments in their own right - see Ch.3

opportunity for expression. Thereafter those elected have absolute authority to decide all. In contrast the English system, with its enquiry and appeals procedures, consultation and public participation practices, appears more mindful of liberal freedoms and rights of expression, whilst using the planning system as a vent for extra-electoral democracy, albeit subject to final political decision.

| Period | Professions | ENGLAND | MAINLAND | Professions |
|----------------------------|-----------------------------------|---|--|--|
| 1850-1914 | | Health & Safety, Material expansionism Scientism (Geddes) Ecology, (Howard) Relativism | | |
| 1914-1947 | Architects Engineers | ← Zoning SOCIO-ECONOMIC (soft) | TECHNO-DESIGN (hard) | Architects Engineers Geometres |
| 1947-1960 | Ditto + Economists Planners | 'Blue-print' plans Plan & Build separated Sociocratic efficiency Local autonomy Relate plan making & implement'n | Zoning and detailed plans Plan & Build stay combined Determinist efficiency State (agency) direction/decision Separate plan making & admin. | Ditto + Lawyers Technicians Functionaries |
| 1960-1975 | Ditto + Management | Social economic planning Rationalism, Plans accommodate Local participation Flexible discretionary decisions Guidance plans | Centralism, Planning controls Administratively binding tiers Pre-plan & execute orders of plan | Ditto + Administrators |
| 1975-1985 | Ditto + Sociologists | (Resource shortages) Decision on precedent not plans Interest mediation | Continuation of above | Ditto |
| 1985- | Ditto | Market led planning Increasing complexity Negotiative planning | Continuation of above | Ditto |
| 1992- | ??? | → Sustainability → Subsidiarity | ← Sustainability ← Subsidiarity | ??? |
| GENERAL DIFFERENCES | | | | |
| | | Political Legislation & Control Planners advise, Politicians direct | Political legislation, Plan control Semi-autonomous administration | |
| | | Flexible plans and rules Planning guides Planning adapts markets Planners advise politicians Politicians decide applications Short term political choice Appeals to ministers Local decisions, access good | → ← Rigid, legal plans and rules Planning creates Planning controls markets Officers administer plan Plans decide applications Long term, predetermined plans Appeals to administrative courts Plans control, access poor | |

Figure 4 English -v- Continental approaches to planning systems derived from literature (source: Author)

As shown in Figure 4, whereas English planning is subject to both legislation and political control, in theory, regardless of how the 'rules' and plans are made, mainland plans should control development. In turning to their professional advisors for help with applications, English politicians may interpret

plans and other 'rules' in relation to current market and other conditions. But with continental decisions being pre-determined by binding plans and codified regulations, these should merely be administered free from political interference. In this sense English planning guides development whereas mainland planning creates and controls outcomes, regardless of markets, etc.. Essentially this means that across the Channel a long term view of land-use and development is required, whereas in England these are subject to short term political choice. While leaving the political and advisory processes to deliver an equitable balance and take into account third party interests, the English system does leave scope for aggrieved applicants to appeal to the Secretary of State. Conversely, since local plans are binding, there is no room for any appeal against decisions made in accordance with them on the continent. Only if a complainant, whatever his/her/its interest, considers that the decision represents maladministration of this plan, may an appeal be made to the Administrative Courts. In practice this means that, theoretically, English citizens have access to and the right to comment on each and every development application, while their continental cousins have no such rights, decisions being effectively pre-determined.

Although most of the literature is Anglo-American orientated, several further pieces of information help to extend this comparison and, through synthesis and interpretation, establish a picture of European planning. Overall they encourage the view that mainland systems are less complex, more direct, and clearer than in England. Theoretically, continental *due process* means that the grant of permits should follow due administrative procedure and deliver a transparency and equity seemingly absent in English flexibility. But neither system appears to specify this or to address the need for planning to deliver equity other than that determined in the plan or by politicians and officials.

2.4 Planning and the 'development game'

As has been seen, land-use and development issues are many and extremely complex. With each country developing planning systems for its own purposes, these systems range from global to local levels (Neutze 1975). Addressing this complexity, Healey (1972, 268) observes that the process of land development is a "game" in which planning is "...connected with the desire for rule imposition, either by one group on itself or by one group on others." These rules are regarded by Thomas (1983a, xxi) as setting the context within which the process of planning and development, its promotion and control must be observed.

However, most European planning systems are now over 100 years old. Europe's contemporary land-use planners are increasingly perceived as facilitators of an ageing planning process, synthesising the many factors of concern and acting as catalysts for often lengthy debates on the trade-offs, land-use options and environmental, economic and social consequences of alternate plans (Fabos 1985). As Healey (1983, 245) observes:-

"Any search for explanations of the form and operation of land-use planning and the role of local plans within it which seeks to escape from the consensus assumptions which appear in the design of plans, and from the pluralist interpretations which mirror the reality of a development game but do not explain it, must move to the wider sphere of the nature and articulation of political and economic forces as they affect both central and local government; the operation of firms in general, and their development activities in a particular locality."

Striking at the heart of this complexity, the purpose here is to uncover not how plans and rules are made, but to discover whether or not the 'development game' follows the formal 'rules', is accessible and transparent, and whether or not it delivers planning permits which balance interests equitably; or, as the *Hypothesis* suggests, whether it is unfairly determined by contemporary considerations.

2.4.1 The purpose of planning and regulation systems

A variety of reasons has grown up for the State to intervene in urban management. Originally based on local materials and craft traditions, this used the regulation of buildings and building works to safeguard health and safety. While these fundamental aims remain, they have been extended to include social, environmental and comfort considerations (United Nations 1985). Indeed, regulations to control land-use and development patterns now have significant impacts beyond building. In Baar's (1992) view they can be central determinants of the level of economic development, infrastructure requirements, the quality of urban life, urban and suburban life styles, the degree of integration or segregation of economic classes, and patterns of consumption⁴³. Planning regulation now involves consideration of the competing interests of :-

1. ensuring democratic control
2. 'due process' and 'rule of law'
3. preservation of the rights of property owners
4. environmental protection
5. historic preservation
6. orderly development
7. preservation of the rights of the poorest groups⁴⁴. (Baar's list of competing interests)

....making the design of land use and building regulations that work well⁴⁵ particularly difficult in democratic societies with market economic systems.

Faludi & van der Valk (1994, p.8) bring a cultural interpretation to this. According to them, in Holland "Rule and Order" is not imposed from above, but pervades the Dutch way of doing things; a predilection they consider that has been successfully harnessed by Dutch planners. Yet, echoing Simmie (1993, 1-2), they suggest that, in so doing "*planners may have created a make-believe world with perhaps an increasingly tenuous relation with reality.*" As Thomas (1983a, 213) observed 11

⁴³ Debates over local land use decisions may take on a great deal of importance at the local level, especially if households perceive such decisions as having critical impacts on the values of their dwellings (Baar and Zsamboki 1992).

⁴⁴ These interests may compete in various ways. For example, the majority within a jurisdiction may not want to permit construction of new housing for low income groups or it may want to avoid expensive compensation requirements associated with a desired project. Groups in favour of a project may not want to afford extensive time for 'due process' thereby enabling opposition groups to organise and express their views (Baar and Zsamboki 1992).

⁴⁵ Some widely respected urban planners believe that urban planning has done more harm than good (Baar and Zsamboki 1992).

years earlier, *"Plans and regulations may be drawn up with insufficient awareness of the situations which operational decision makers face."*

Addressing this situation Banfield (1974) distinguishes between issues of comfort, convenience, amenity and business advantage, which he alleges planners devote most of their attention to, and those which threaten the essential welfare of society. He argues that, while the latter are truly 'serious' problems, the former are not. Furthermore, because of the characteristics of man and society, the inherent conflicts cannot be solved by rational management. Thornley (1991, 99) interprets Banfield's message as being *"government intervention wastes money and time on schemes that are geared to insignificant problems that will take care of themselves anyway, or on people who can never be helped until their attitudes change"*.

Banfield's distinction also highlights the division between policy and regulation as forms of land-use management and control illustrated by the *Dynamics* model (p.14). Policy may be more suited to problem solving and regulations to the technical and similar standards aspects. It also draws attention to the way the nature of planning (2.3) and the aims of intervention have changed and the objectives behind regulation become confused. Figure 5, p.25, compares these shifts suggesting how planning's purpose appears to have moved from the citizen and (local) community to the (local) state and wider society, *qua* economy.

| Originally seeking to enable or create:- | Now varied to address the need :- |
|--|--|
| i. ideal forms of (local) living in a perfect physical environment | i. to work with trends in the economy & society at large |
| ii. (local) spatial ordering to dignify a harmonious existence for humankind | ii. to fully consider all (the wider) practical details of implementation |
| iii. a healthy nation (through local communities) | iii. for increased overall economy of infrastructure |
| iv. (local) public choice over urban and social environment | iv. to make decisions more efficient overall |
| v. public and private rights over (local) land & property | v. for medium term reproduction of social systems via regulation of partial regulations |
| vi. protection of public lands and access to them for all citizens | vi. to reduce inconsistency, uncertainty, diversity, and management of the non-market sector including resolution of conflicts |

Figure 5 *Comparison of the change in purposes of planning interventions in Europe (Source: Various)*

2.4.2 Issues, Interests and 'rules'

Constant shifts in these objectives present the possibility for both unforeseen influences to impact on, and unintended consequences to result from, the way 'rules' are used in land allocation decisions. Indeed, the use to which planning is put may be very different from its intended purpose. Claims of 'acting in the public interest' raised in support of any of these merely point up the questions of who decides and what actually is in the public interest (see 2.4.2).

Thus systems and 'rules' for intervention may be designed to respond to mutually incompatible exter-

nal conflicts of interest, but they may be used to promote public over private interests, public institutions over private individuals, public regulations over private property rights and plans over markets. They pull the system in different directions with balance depending upon forces in contention over particular issues (Simmie 1993, 156). Having apparently become more concerned with current *interests* and *issues* than with spatial or physical outcomes, as interventions shift with trends in society, it seems possible for planning practices to deviate from formal *procedures*, to become more opaque and to overlook 'equity' (1.3).

Any attempt to satisfy Kivell's (1993, 8) (see 1.2) criteria for planning's justification faces the difficult, if not impossible, task of comprehensively defining the issues of whose claims compete, how power should be balanced, and what interests need protection. Furthermore, such definitions and related actions have to appear legitimate to all interests; in Healey's (1983, p261) terms to "*face all ways at once*". This difficulty is illustrated by Figure 6, p.26. At different times and for different reasons, anyone and everyone may be considered to have an interest under any of the headings shown.

| Some Issues & Interests in Permit Decisions | | |
|---|-------------------|---------------------|
| 'Rules' | Policies | Decisions |
| Plans | Welfare | Conformance |
| Regulations | Markets | Performance |
| System | 'Public interest' | Mediated/Negotiated |
| | Actors & Agencies | |
| Plan makers | Plan makers | Stakeholders i.e. |
| Government | Citizens | Landowners |
| Legislators | Pressure groups | Developers |
| Producers | Politicians | Professionals |
| Philosophers | Professionals | Professionals |
| | Consumers | Neighbours |
| | Producers | others |

Figure 6 *Some Issues & Interests in Permit Decisions* (source: Author)

i) Private interests and 'rules'

Private Interests flow from the relationships between the actors and agencies involved in land-use and development and from those involved in the practices accepted as part of the way things work. When they involve public interests they may become policy issues (see 2.3). Whilst neither simple nor the same thing, citizens rights and property rights are often contiguous with property interests, development interests and the 'public interest'. As numerous discussions attest, they are all intricately involved with government interventions in the land allocation process ⁴⁶.

Private Interests are not confined to rights of ownership or to benefits. They may encompass the moral, cultural, social, aesthetic, historic and futuristic as well as the economic. For instance an out of town shopping centre may impact on all of these. Historically, culturally and aesthetically it may change traditions, townscapes, landscapes. In both present and future it may alter social patterns and relationships. Economically it may undermine stability, promote greed and challenge moral values

⁴⁶ For a range of discussions on rights and interventions see, for example, George (Denman 1972; 1937; Goodchild 1985, 2-14; Lichfield 1980, 64-99, 129-166; McAuslan 1980; Twinning 1987; and Simmie).

through unfair competition, loss leading, astronomic land values, etc. Everyone affected by any of these concerns may be said to have a *private* or '*stakeholder*' interest⁴⁷ in the decision.

Some private interests also have a direct interest in the private gains resulting from the grant of planning permissions. These gains may be so great that, to Walters (1974, 5), development opens up the planning system to possible corruption. For him, "*Planning creates conditions in which each property-owner has an enormous incentive to wangle, cajole, threaten, use special influence, and ultimately to bribe, and where politicians and civil servants have immense power and temptation placed in their hands*".

Saunders (1981) adopts this theme to consider what interests are broadly linked to the economic tendencies of a late capitalist economy and what political demands this creates. He feels it possible for production interests to use and create opportunities for relatively hidden negotiation over the release of land for development projects, while consumption interests (see 2.4.3) make more use of plans. Healey (1983) affirms that, because plans may constrain development opportunities, production interests do seek to influence plan formulation. Furthermore, as property firms seek more direct support from the public sector and as their cost margins are squeezed by continuing recession, the relationship between property firms and planning authorities becomes increasingly negotiative rather than plan-based (p.256). Therefore, if consumption interests wish to constrain production interests, they must enter the negotiative processes as proposed by the RTPI's (1982)⁴⁸ report on public participation.

ii) Public Interests addressed by planning 'rules'

Given the potential for conflict between interests and the need for intervention to ensure that they are treated equitably, the strong role for the authorities in protecting the *Public Interest* projected by the literature⁴⁹, is understandable. However, there is a great deal of confusion and uncertainty over what the term means. For Schubert (1960) this uncertainty is at the heart of the difference between English and mainland systems (see Ch.3) and between planner's '*ingenuity in political mediation*' under both.

In planning systems the term often implies legal and purported rights or claims for public participation in development benefits and, in the English public-policy making context, it may be synonymous with the national interest⁵⁰, being used to justify limiting and/or regulating private rights. However, such 'national' approach contrasts with the interests of local communities, often equated with a sustainable 'quality of place'.

⁴⁷ For a more detailed discussion on stakeholders see (Bryson and Crosby 1992)

⁴⁸ Royal Town Planning Institute

⁴⁹ see Sorauf \, 1957 #971; Elkin \, 1974 #1097; Ross \, 1991 #972)

⁵⁰ It reflects an underlying holistic social theory in which the interests of society as a whole are argued to transcend narrow sectional interests, and thus dictate specific policy approaches. Society is held to comprise interdependent parts with the health of the whole contingent upon the 'correct' functioning of the parts (Simmie 1981a, 100-1)

Simmie (1974, 121-127) considers there to be no such thing as THE public interest⁵¹. Rather there are a number of different and competing interests, each using the planning system for its own ends whether or not these relate to permit decisions. For example, a town may use planning powers to preserve autonomy and resist central direction⁵². Harloe (1990) highlights this. He compares the assumption that central government is the best arbiter of public interests with that which claims these are best represented by democratically elected local authorities, particularly in respect of 'locality'; or that private capital will not be 'representative' of local interests; or that the direct role of central government in local initiatives should be limited on grounds of both 'efficiency' and 'democracy' (see 2.4.3).

Indeed, as Faludi (1987) points out, public authorities are not the only ones able to act in terms of the public interest. Nor are they necessarily above other actors. For example although the interests of individuals and social groups are heterogeneous, they do not all act in terms of narrow self interest, as the existence of a range of 'altruistic' pressure groups evidence (Bagguley et al. 1990; Urry 1990, 189). However, whilst they may take on what they presume to be the interests of other groups, or indeed the 'locality' in general, their actions can have unintended consequences (*Urry, op cit.*). Faced with this difficulty in definition, the *public interest* is here divided into two camps; the *general interest* being that which may be of concern to the general population at or above the scale of the neighbourhood, and the *community interest*, attending citizen's long term interest in local place.

iii) Power, intervention and 'rules'

As already noted, in Marxist terms, the built environment is the result of conflicts, in the past and present, between those with different degrees of power in society. In this, those more powerful interests (including here the more knowledgeable) seek various ways to ensure their control over the determination of what 'balancing' means. Lacking clear purpose of its own (2.4.1), in practice planning may be used to pursue the interests of the powerful via informal, social procedures. These relationships may become more prevalent as the policy element of the 'rules' grows in importance in response to transient contemporary and future objectives (2.4.3). As recognised in the considerable socio-political literature on corporatism, bureaucracy and techno-rationality governing public agency activity⁵³, these relationships may take many forms. For example, in Pahl's (1970, 187) terms it is society's 'social gatekeepers' who control the actual distribution of urban resources and set the bureaucratic rules and procedures of allocation by élites⁵⁴. This may create new procedures, formal (e.g. consultation procedures) and informal (e.g. negotiating practices), to demonstrate that the way the state exercises its role is both in the general 'public interest' (Healey 1983, 261) and 'fair' between 'private' interests.

⁵¹ For a full discussion of 'public interest' see Simmie (1974, 121-7)

⁵² For instance UK towns subject to the imposition of Urban Development Corporations may direct their attention to the development of other, possibly Greenfield, sites within their boundaries.

⁵³ See Offe (Cawson 1982; 1977; Saunders 1981)

⁵⁴ See Bottomore (1970; Michels 1966; Mills 1959; Mosca 1960; Pareto 1963; Sorrels 1950)

Perceiving the UK system as one of mediating *interests-in-land*, Healey (1988, xii) links negotiation to a *process* of mediation (2.3.1) directed to discharge Kivell's (*op cit.*) 'equity' remit. Simmie (1974) takes a narrower view. For him planning mediates between "... *the aggregated interests of the most powerful coalition of participants in any given issue*" (p.130). Having failed to define planning's role in the "*allocation of power and resources*" (p.131), he considers planning in danger of being condemned for "*serving those groups who already possess a sufficiency of (power and interests)*" (p.132).

Since English plans express performance criteria as much as specific allocation, a high degree of administrative discretion permits plan status to be varied by administrators, enabling developers to exploit *ad hoc* regulatory decision making (Goodchild and Munton 1985). Indeed studies by researchers with different perspectives consistently show that developers are more powerful than local planning authorities (Simmie 1993). Thus, there are often widespread discrepancies between the public objectives of planning and their private outcomes ⁵⁵.

2.4.3 Actors, Agencies and 'rules'

In England planning is open to interpretation and manipulation along with related institutional arrangements (2.4.3). Accordingly, for Healey (1988, 11) it is the social relations within which these arrangements are made active that are important for understanding interest mediation in public policy. Through these social relations, interest groups establish links with politicians and officials having formal responsibilities for policy programmes. It is the values established in such relationships which reflect the 'frames of reference' called upon as issues and interests are prioritised.

It is, therefore, possible that, as Lukes (1974, 24) argues, power, as attributed to planners, can be identified with a pattern of rules and institutional practices that may systematically bias the operation and outcomes of the social system. It may favour some issues and interests and be against others. One of the ways in which bias arises is by inducing in certain agents, like planners, a false understanding of their own interests. This prevents those agents from mobilising resources to their own advantage (Lukes, *op cit.*). Bacharach (1970) implies that such power confines the scope of decisions as well as mobilising bias. In Frey's (1971) view, it suppresses issues and options which are then never formally recognised.

It is, therefore, a mistake to concentrate on the "middle dogs" (Simmie 1993, 23) of the urban power structure while ignoring those at the top who actually lay down policy, since any significant effects of planning are likely to be the result of the operation of the system as a whole (Paris 1982; Reade 1987) (see also 2.4.4).

But, it is argued here, although understanding each country's planning system as a whole is necessary

⁵⁵ see for example Ferris (Brindley 1989; Elkin 1974; 1972; Lee 1974; Reade 1987; Saunders 1979; Simmie 1981a; 1986).

to appreciate its component parts, such understanding holds the inherent danger of obfuscating important, even critical detail within these. Thus, the concern here is not with the system as a whole, but with permit decisions.

In England these are constitutionally taken by local councillors. Yet they do so on the basis of choices offered by senior officers. In consequence these officers can exert significant *de facto* control over policy within their area of statutory discretion (Harrington 1984; Pinch 1985). The reality of such decision taking gives 'high actual power to departmental chiefs in UK local authorities' (Friend and Jessop 1969). Three reasons account for this. First, as permanent employees they are in a strong position to mobilise strong support for a 'departmental' view that may conflict with politicians preferences, even though political interests rather than rationality guide the actions of planners (2.4.3). Second, as professionals they can claim technical expertise. Third, as members of nationally organised professional associations they can appeal to ideas of 'best practice' prevailing in the profession (Dunleavy 1979; Pahl 1970: part III).

These senior planners may have interests in the plans and rules on which they advise the members⁵⁶; interests which may conflict with their 'public interest' duty to the administration. As Healey (1983, 8) points out and as Davidoff (1965) and McAuslan (1980) might argue, this, at least in part, is to mediate disputes between interest groups (citizens, pressure groups, owners, developers, etc.) who through the development plan and applications have linked with them and their councillors. These relationships take many forms and may make the administrative discretion over decisions which planners exercise within them subject to bias, negotiation and manipulation. Consequently discrepancies in objectives and outcomes which favour some groups and not others, are possible.

Whilst plans (and other 'rules') may articulate underlying values, assumptions and concepts, these themselves may be in a constant state of flux (Faludi and van der Valk 1994). In fact Davies' (1986) research into the relationship between UK *Development Control* decisions and plans, found a "vast substructure" of implicit and semi-formalised criteria in use to guide decisions. Much of this was outside any base in a plan and some of it was not available for either public or political scrutiny. He attributes this to the weak legal link between UK plan and decision, the discretion available to decision makers allowing an easy drift from a 'plan led' system to a 'project-led' one. This enables policies to take cognisance of benefit distributions and be professionally prepared, but still tends to support the established order. It also draws attention to an important distinction between the objectives of the laws upon which land-use planning relies and the objectives of that planning itself. Occupying an important position in democratic theory (Hill 1981, 211), this distinction may extend to the legislative arm of government adopting general regulations and the executive arm administering them.

⁵⁶ On strategic matters this may be those councillors leading the council, e.g. the leaders of the ruling party or policy advisory committee; on specific applications this may be the chair and members of the planning committee.

Indeed, contrary to the spirit of subsidiarity, acting as agents of the state, in Johnson's terms (1972) town planners define "*both the needs and the manner in which the needs are met*" and "*remove from the producer and the consumer the authority to determine the content and subjects of practice*". Wittingly or unwittingly they mediate the relationships between producers and consumers and between the two most important distributive mechanisms for society in general - politics and markets (Simmie 1974, 125-134). On the continent, the allocation of permits in accordance with predetermined legal plans and codified 'rules' by administrators, should avoid such discretionary pitfalls.

2.4.4 Politics, markets and 'rules'

Planning is "*a thoroughly political process*" (Bailey 1975). By allocating rights and the benefits which flow from them, in Pahl's (1970) view it plays a crucial role as a hidden mechanism of redistribution policy in any mixed economy. In Britain this is achieved via a unitary style of politics (Foley 1963) which Hall (1977, 171) sees as typical of "*a paternalistic system of Government, where an established ruling class is sure of its values*".

Pickvance (1990, 24-35) argues that, in the UK, attempts by central government to dominate local government have increased tensions in the top down -v- bottom up 'war' between them over intervention approaches and routes. Thus the degree to which local government has the capacity for autonomous policy making and can exercise discretion - and fairness, the degree to which it is 'executant' or 'non-executant' (Sharpe 1979), is of concern. Strengthening the presumption that central government is concerned primarily with production⁵⁷, this fragmentation may be to central government's advantage, for instance by localising any conflicts that arise. It may also help explain the increasing role of UK central government in monitoring the exercise of planning control; likewise the tension between large development firms and small district councils, since the present UK system encourages such conflicts to be focused around plan preparation. Development firms can affect this through consultation procedures whilst continuing to negotiate around specific proposals (Healey 1983, 256) and individual decisions. Whilst the central state seeks to direct a free market approach to land-use decisions, the local state attempts to retain spatial and environmental control through its planning tools. This leads Brindley *et al* (1989, 183) to believe that the problems of market-led planning lie in "*its social divisiveness, its lack of accountability, its short-termism and its inherent instability*". But Reade (1987) argues that even during the heydays of British planning the idea of 'community' failed to provide the basis for consistent and adequate planning practice.

Thus, beyond plans, *Development Control* may have to contend with local and national policies which are implemented via different policy instruments. Since these may encompass 'grey' decision areas and permit professional latitude in determining goals (see 2.4.3, Davies, 1986), in Simmie's

⁵⁷ For discussions on the relationships between central and local governments and their responses to production and consumption interests, see, for example, Pickvance (1990, 5), Cockburn (1977, 47-8), Friedland (1977), Saunders (1986), Cawson (1982), Duncan (1988)

(1993,17) view the likelihood is that they too will support the established order. He claims that planners have a vested interest in maintaining such systems “... *in order to secure their positions as 'technical experts' and also to facilitate the implementation of their plans.*” (see Actors, agencies & ‘rules’, above). Indeed, as a key interest group affecting policy, in Britain such professionals may form putative policy communities (Laffin 1986).

Now *policy* implies vision and action in the future (Thomas et al. 1983a). So, while problems may persist from the past, including those created by planning itself, and arise either in the present or the future, subjects like R&D⁵⁸, communications and information may well play a crucial role in long term perspectives. Mirroring Healey (1983) policies may “*point in different directions at the same time*”. Even allowing that centripetal and centrifugal spatial processes constantly and interchangeably determine urban spatial layouts with respect to city, fringe and rural areas (Nijkamp and Perrels 1994, 10), therefore, as the *Dynamics* model (p.14) indicates, a range of ideas, interests and circumstances may cause political considerations to develop differing planning policies. Furthermore, economic development and market outcomes are now acting more directly on the policy making process. Hobbs (1989), for example, shows that UK local planning policy and its delivery are structured to ensure that town planning facilitates economic change. Required to justify its actions in terms of markets and their externalities, *inefficiency* in land-use rather than rational efficient planning is being promoted as a route to wealth creation (Thornley 1991). At the interface between central and local government’s efforts to direct policy, planning, as a form of direction and control may be antipathetic to markets but, even if it ever truly did, it is no longer allowed to oppose them.

Overall, to judge from the English language literature, intervention takes place at the level of power rather than process, and in support of economic not social, or democratic, or liberal policies, or indeed of the long term stewardship of land as a natural resource (1.2.1). In this way economic and political changes continually reconstitute who has what interests in land, and how the planning system is fashioned to respond to the demands generated (Healey et al. 1988, 10). In theory, continental conformance to predetermined ‘rules’ should obviate such equity threatening decision predicaments.

2.5 Conclusions

From the literature it seems that modern planning systems have evolved as public policy instruments in response to competing, mutually incompatible interests. They are both the result of, and subject to, varied interventions both for wealth redistribution and wider problem solving, as well as a means of regulating private development rights in the *public interest*. National differences may lie more in ideological approaches to resolving the tensions referred to with interventions directed at a range of planning and development activities as tools of economic and social policy. Shifting with time, these are unclear, seeming to pursue a range of objectives. Issues of spatial and physical development are possibly best controlled by regulations and plans, those of socio-economic development by policy.

Although most of the literature referred to relates mainly to England and the UK, it appears that English actors and agencies are not geared toward equity or transparency. Relieved of such potential conflicts by the certainty of predetermined conformance plans, continental 'rules' may be better placed to deliver these.

To sum up, overall the impression gained from the literature is that planning systems may neither propose, project or control development as anticipated. Planning's purpose appears transitional with professional understanding of its purpose confused. Consequently, lacking a common, specific philosophical grounding, the professions current attempts to grasp the 'new' concepts of sustainability and subsidiarity may direct its concerns to Banfield's 'essential problems' of society. However, consideration of these may be largely internalised, since there is little evidence that planning systems are either accessible, transparent, or equitable, although mainland systems may be more conducive to these principles.

⁵⁸ Research & Development

Development Control in Europe

- a comparison -

Establishing the background to research, Chapter 1 asked “*What is the nature of planning systems and how are they practised in mainland Europe?*” (p.9). In response, and from a mainly Anglo-centric literature, Chapter 2 identified 2 types of system, *Anglo-American socio-economic* and *Continental techno-design*, in which Britain seems to emphasise mediation and bargaining skills in determining applications, while mainland countries rely on technical expertise to administer planning consents.

Chapter 2 also showed that, although UK systems share the same roots as Continental systems (Figure 6, p.25), different legal bases, increased complexity and confused purposes have distanced them at local level. Furthermore, while protection of rights and delivery of equitable decisions remain a common historical justification for their existence, planning systems have become tools for a wide range of government interventions across Europe.

However, overall, pre-determined, plan based mainland systems seem more certain and able to deliver clear, transparent, land use outcomes than Britain’s flexible, mediated, permit decision processes.

This focuses enquiry on European development control systems and, bearing in mind Hooper’s warning that:-

“Perhaps the greatest danger in comparative analyses of this type is the temptation to identify phenomena to be compared through the blinkered perspective of one country (an almost inevitable difficulty given the cultural problems associated with international studies). Having identified a policy field in one country, its ‘equivalents’ are sought out in other countries and policy instruments compared directly in terms of their effectiveness in achieving expressed goals. Such analyses inevitably distort the universe under observation, and can too readily descend to the simple parade of prejudice.”

(Hooper 1989, 255)

... this chapter seeks to compare these.

Since, despite any broad similarities, these exhibit many differences of detail - indeed, variations exist even within the separate countries of the UK - England is taken as a bench-mark for this comparison. Denmark⁵⁹, France, Germany, Italy and the Netherlands, supplemented by information drawn from other countries as available, represent mainland Europe. Background information relating to the Central European countries considered is provided at Appendixes 11 & 12

⁵⁹ Denmark is included in this comparison since it is one of the countries considered by Davies, *et al*, (1989b) in their important consideration of *Planning Control in Western Europe*.

3.1 Comparative framework

Any attempt to place varied systems into a common framework is not only difficult, but can be positively misleading unless done with care and read with circumspection (Davies 1989b, 411). Additionally, in practice all 'rules' must be addressed in the language of the nation concerned since:-

"... this is not simply a question of translation and understanding, though that in itself is difficult. More fundamentally, the two crucial instruments of the English system, the development plan and development control are unique to England, with a very precise technical and legal meaning. There are no comparable, equivalent terms in the other (five) countries. To take but one example, there is no Dutch word for 'development' in its technical, English sense. Conversely, there is no English term for the Dutch 'bestemmingsplan' which is translated variously in the English literature as land use plan, local plan and development plan, all of which are both inaccurate and misleading."
(Davies 1989b, 28)

Here, adopting these caveats, information drawn freely from a range of sources is categorised and cross tabulated to identify:-

- A. the formal and informal differences between European planning systems, i.e. between
 - 1. - laws and regulations
 - 2. - administrative procedures, mechanisms and institutional arrangements
 - 3. - the way these 'rules' are used
- B. the composite objectives and purposes of national 'rules'
- C. what latitude exist for varying or changing plans, regulations, procedures and codes

To assist in this task the following categories, approximating to these objectives, are adopted and imposed on the literature. Re-ordered to follow the usual sequence of occurrence they are then used to head up sections of the discussion.

| <i>Literature description</i> | <i>Category</i> |
|--|--|
| Law and regulations | = Constitutional & organisational background |
| + Legislation & regulation | |
| Administrative procedures, mechanisms & institutional arrangements | = Definitions, procedures & plans |
| The way 'rules' are used | = Monitoring & Implementation |
| Composite objective & purpose of 'rules' | = Policy |
| What latitude exists for variation | = Flexibility |

Space precludes discussion of the individual differences between countries or between them and the findings of Chapter 2. However, a series of tables, combining data, stated and inferred, from the works of Davies (1989b), Dieterich (1993/4), Keeble (1983), Scattoni (1987), Renard (1992), Batley (1991), Ave (1991; 1996) and Fubini (1991a), make these clear. Close inspection of these tables will reveal differences between aspects of planning discussed in Chapter 2 and the *Development Control* systems discussed here (see Davies' caveat, above). Although Davies *et al's* work concludes with several cross tabular comparisons, unfortunately these do not have either the classifications or range of data required for the purposes of this study.

A common legend is used for all tables, but inclusion in the legend does not infer that an item is present in a table. Blank spaces indicate their apparent silence on the item referred to. As noted, in discussing these categories further works are drawn on, as referenced.

3.2 Cultural & Ideological background

Before comparing development control systems, to help appreciate differences in detail this section reviews some of the cultural and ideological concepts which may have shaped them.

As Cherry (1982, 133) notes, planning is “...culturally derived and developing within political and institutional boundaries”. Indeed, although feudal systems and traditional village rights of common lands have left a legacy of large amounts of communal or state land ownership (Lichfield and Darin-Drabkin 1980,192), European countries share a cultural, even psychological or emotional (Virtanen 1993,3) attachment to the private ownership of land (Table 3, p.40), be it the French *petit souverains* (Frebault 1989), the English *bundle of rights* (Ratcliffe 1976, 21-23; Williams, Wood, and Linn 1991, 15), the German *Grundgesetz*’ (Dieterich, Dransfeld, and Voss 1991, 2-3) or the slightly more restrictive *Civil Code* rights of the Netherlands⁶⁰ (Needham et al. 1993, 5-7). Even northern Scandinavian countries, proud of their *allemannsretten* - everyman's right to free access to land - place economic use of land firmly in the hands of landowners (Holt-Jensen 1993,3-5). Such ownership is referred to variously as 'exclusive' and 'absolute'. A similar attachment has also been demonstrated by the recently 'enfranchised' former Eastern Bloc countries . With evidence from the behavioural sciences showing a genuine deference to persons whose status derives from ownership of land surviving far beyond the end of the feudal system (Arnison 1984,138), such attachment is understandable.

For example in Germany there is a constitutional guarantee of private property rights, although the constitution (Basic Law) states this must serve the public welfare, establishing a relationship between development and the planning context. Their whole system of land use planning may be seen as a means of facilitating the development of private property rights in a socially responsible manner (Hooper 1989,258,273). In France the development permit is traditionally considered a right (Jacquot 1987,354-5), while in Belgium “Most citizens are not opposed in principle to planning as a rational activity in the public interest, but they are opposed to one of the most crucial consequences of its adoption, namely, the prohibition of freedom to build anywhere, and of the right to sell every parcel of land as a building plot.” (Anselin 1984,64)

However, for much of this century, and particularly since the end of World War II, governments have progressively sought to restrict rights of ownership, for example through planning acts and powers of expropriation (Lichfield and Darin-Drabkin 1980, 192-226). The English system seeks to overcome this by, in effect, nationalising all development rights in undeveloped land (Cullingworth 1988, 159) resulting in various attempts to attach the increase in value resulting from the grant of planning permission (the ‘betterment value’). In theory this separates the whole question of land-use planning from land policy about the ownership and value of land, enabling decisions about land use to be taken

⁶⁰ The Dutch constitution makes property rights subordinate to the legislation but this has the declared aim of guaranteeing their certainty (Davies 1989a N3.4, N6.3)

(equitably) on planning grounds in the public interest rather than on the basis of land ownership and value (Davies 1989b, 34; Faludi 1987, 150), a subject returned to in Chapter 4.

In the struggle against arbitrary action by the authorities (Faludi 1987, 167-78), it therefore seems that the imperatives of 'ownership' may work against the ability of Continental systems to protect interests equitably more so than in England.

3.3 Constitutional & organisational background

Many of the contrasts between different development control systems derive from differences in constitutions and legal systems. These define the relationships between citizens and government, and between central and local administrations within government.

3.3.1 Concerns and tensions

Analysis of representation, autonomy and transparency (Table 2, p.37) exposes tensions between constitutional commitments to the protection of private property and related rights, and legislative mechanisms to restrain such rights (Table 3, p.40).

| Comparison of selected EU development control systems | | | | | | |
|--|-----|---|-----|-----|-----|-----|
| <i>Constitutional / organisational</i> | | | | | | |
| | E | D | F | G | N | I |
| - written constitution | - | x | x | x | x | x |
| - unitary state | x | x | x | - | x | - |
| - proportional representation | - | x | x | x | x | * |
| - levels of government | 2/4 | 3 | 4 | 3/5 | 3/4 | 4/5 |
| - decentralised local autonomy | o | x | x | x | x | x |
| - decentralises land use decision making | o | x | x | x | x | x |
| - separates development from 'base' value | x | - | - | - | - | - |
| - local election period (yrs) | 3 | 4 | 4 | 4/6 | 4 | |
| - mayor (equivalent) elected by members | x | x | - | x/- | x/- | x |
| - politically headed executive / deliberative body of members | - | x | x | x/- | x | |
| - divides political & administrative power | x | + | - | - | n | - |
| - L/A funding primarily controlled by central government ⁶¹ | x | - | x/- | | x/- | x/- |

Legend: x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually
 @ = as defined in plan & regs. n = nominal Blank = appears silent
 E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands, L/A = Local Authority

Table 2 *Constitutional /organisational background to regulatory systems (sources: per 3.1)*

Notionally, all the countries considered have decentralised, autonomous local governments responsible for decentralised land use decision making. Yet this may be constrained. With the exception of Denmark and possibly Germany, in each country local authority finance is substantially controlled from higher levels, potentially limiting autonomy. As Hanley (1985) remarks, "*Autonomyis proportional to resources*", and finance is central to resources.

Likewise the decentralised, autonomous, proportionally-represented local authorities of mainland Europe are required to conform to a hierarchical structure of plans and follow superior land policy and planning guidance. This seems to conflict with any objectives for decentralised land use decision making in which the public are represented.(Table 4, p.46).

⁶¹ Municipalities may have local tax raising policies (reference under 'L/A funding' in the Table *Constitutional/ organisational background*)

Furthermore it is possible that these superior impositions are obfuscated by multi-tiers of unitary state governments - to *Länder*⁶² level in Germany⁶³. These appear to be in tension with the written constitutions devised to protect rights and freedoms. Development rights, and compensation⁶⁴ for their loss, are counter-posed by prospects for expropriation (Table 3, p.40), (but see *Cultural & Ideological background*, p. 36). While political and administrative power in France, Germany, Italy and, nominally, the Netherlands, is supposedly separated to avoid politically partial actions overriding codified regulation, the chances of this tension being intensified by politically headed executives in these countries would seem present.

The literature is not clear on whether or not local planning authorities address equity in decisions between conflicting interests or whether the English notion of 'fair play' is discharged by individual officers, or at all. Continental constitutions and codes seem in conflict over this⁶⁵. But, in his treatise on how urban greed exploits the land, Norton-Taylor (1982) is clear that fair consideration is not always delivered in Britain. He castigates (p.199) "*Well meaning, but unimaginative planners (who) vie with impoverished local authorities and private property developers while the land and the people suffer.*" Highlighting the conflict between 'town' and 'country' planning, he recounts how, despite the 1947 Town & Country Planning Act, successive attempts to secure any part of betterment value⁶⁶ for the state (not to say citizens) in the UK, have failed.

Recognition that these tensions exist in Continental systems perhaps more so than in England, adds to the doubts expressed in Chapter 1 over their real ability to deliver 'equity' through land-use and development control.

3.3.2 Approaches to 'rules'

At least two major differences exist between English and mainland European approaches to develop-

⁶² Germany is a Federal State made up of 16 separate *Länder* or federal states, including 3 city states.

⁶³ The tabulated range of levels given covers sub and parallel authorities, etc. created in certain circumstances.

⁶⁴ Rights to compensation may be limited, as in Germany where the State can impose legal restrictions and obligations with regard to the social commitment of such rights. For example, if incurred during the transition period of a new binding land use plan being made, will only be paid if this period exceeds 4 years (Hooper 1989,G1.24,G4.2).

⁶⁵ The 2nd book of Napoleon's Code Civil deals with property rights and freedom to contract. Based on rationality, and covering most of Europe, the Code attempted to rationalise objectives with Roman Law. Germany and Switzerland replaced it with their Civil Codes just after the turn of the 20th century and Italy departed from code in 1942 (Encyclopaedia Britannica).

⁶⁶ 'Betterment' was conceived by the Uthwat Report (1942) as "*any increase in the value of land (including the buildings thereon) arising from central or local government action, whether positive, for example by the execution of public work or improvements, or negative, for example by the imposition of restrictions on the other land.*" The 1947 Act went further: all betterment was created by the community, and it was unreal and undesirable (as well as virtually impossible) to distinguish between values created, for example, by particular planning schemes, and those due to other factors, such as the general activities of the community or the general level of prosperity (Cullingworth 1988,160). In summary, 'betterment value' is considered here as the change in value of land and property arising from its conversion from one use to another as a result of receiving planning (development) permission.

ment control: the constitution⁶⁷ and codification. In England there is no written constitution defining the powers of central government⁶⁸ or protecting the basic rights of citizens. All power derives from legislation enacted in Parliament, and is administered by central and local government. The courts provide a safeguard for the rights of citizens by ensuring that administrative decisions lie within the powers of the legislation (Davies 1989a, 36). This contrasts with continental separation of the legislature from administration, the importance of the administrative courts as means of safeguarding citizens rights and the principle of legal certainty contained in the written constitutions and codified legislative systems elsewhere; differences confirmed for France, Germany, Netherlands and Italy by Dieterich (1991), Needham (1991), Williams (1991) and Ave (1991).

According to Cullingworth (1988), informed by constitutional⁶⁹ and 'public interest' concepts, planning decisions embrace all levels of policy, require impartial consideration, and demand equity and fairness. On the Continent these should be predetermined by legal plans and codified regulations, whereas in England they may be reconsidered for every project. As (Keeble 1983, 108) points out, *"In the absence of a detailed plan, nearly every (UK) planning application becomes an exercise in detailed development plan preparation."* Thus, it is argued here, Continental citizens should be more sure of receiving fair, equal, unbiased treatment than the English.

3.4 Legislation & regulation

Although differences in approach to legislation may be narrowing, as noted (3.3.2), sharp contrasts between English and continental planning and development control systems (Davies 1989b) may be due to codified frameworks as well as constitutional approaches.

3.4.1 Laws, regulations and codes

English common law⁷⁰ is based on court decisions, on the doctrines implicit in those decisions, and on customs and usages, rather than on codified written laws. This allows a discretion and hence flexibility in the way regulations are interpreted, presumed not to be found where codification eliminates discretion in the way regulations may be applied. Influenced by the Code Napoleon⁷¹ this tends to be the

⁶⁷ In Germany the term 'Basic Law' (Grundgesetz) is used rather than constitution, intended to signify the provisional nature of the 1949 provisions, although this has become permanent for the foreseeable future (Bulka, Michel, and Wullencord 1986, 70-71, 92)

⁶⁸ In contrast, local government can only do what it is empowered to do by statute. As with a limited company or 'corporation', this effectively defines its 'constitution'.

⁶⁹ see *Formal and informal differences* below

⁷⁰ Although English 'common law' is distinguished from statute law, increasingly English law in general, and certainly all planning law, is statute-based. However, following the principle of precedent, interpretation by superior Courts binds inferior Court decisions, closing the circle back to 'common law'.

⁷¹ Although Roman codification, the 'Roman Law' so often referred to, occurred only toward the end of that empire, legal codes can be traced back to the Babylonians. Prior to Napoleon Bonaparte, the laws of Europe were a mixture of Feudal, Frankish, Royal Decree, Cannon Law and Case Law, with the remnants of some Roman Law, mainly in the south of France and Italy. Toward the end of the 18th. century, after the Manors and the Guilds were destroyed and the secular power of the Church severely diminished, there was a need, even a necessity, for rationally based legal codes. With little prior success at codification, a general movement grew up throughout Europe demanding this.

Under the direction of Napoleon Bonaparte, between 1804 and 1807 the *Code Napoleon* was developed in response to this demand. As the code of French Civil law, it was founded on the premise that, for the first time in history, a purely

case in much of continental Europe (Encyclopaedia Britannica).

i) The object of codification

In essence a codified system attempts to provide clear rules of procedure and decision-making and to protect the rights of the individual through promoting the *"immutable principles of liberalism"* (Brown and Garner 1983; Weil 1965). For example, in France codification is a vital component of the system of bureaucratic and technocratic control. It grants discretion not to politicians but to the administrators, emphasising the general (French) mistrust of political control (Punter 1989). As Brown (1983) comments, *"...content to leave the details of government to the experts, the French are not governed but administered"*

| Comparison of selected EU development control systems | | | | | | | | | | |
|--|---|---|---|---|---|-----|--|--|--|--|
| Legislation & Regulation | | | | | | | | | | |
| Generally: | | | | | | | | | | |
| | E | D | F | G | N | I | | | | |
| - is influenced by Roman Law | - | x | x | x | x | x | | | | |
| - is codified to give certainty / protect constitutional rights | - | x | x | x | x | x | | | | |
| - allows discretion in interpretation of regulations | x | n | + | x | n | - | | | | |
| - provides separate administrative courts | - | - | x | x | x | x | | | | |
| Rights & obligations: | | | | | | | | | | |
| - recognises private proprietary land rights | x | x | x | x | n | x | | | | |
| - allows legal challenge if rights violated | x | x | x | x | x | x | | | | |
| - assumes owners rights to build if no adverse reason | x | @ | @ | x | x | x/- | | | | |
| - gives / implies development rights from local plans | - | @ | x | x | x | x | | | | |
| - allows L/A replotting of land to fit plan | - | | | x | | | | | | |
| - allows expropriation/compulsory purchase of land | x | x | x | x | x | x/- | | | | |
| - provides official rights of pre-emption | - | | x | + | | | | | | |
| - may require 'betterment' charge to be payable by landowners | * | | | | | | | | | |
| - may require owners to meet %age of infrastructure costs | x | | o | @ | x | x | | | | |
| - provides compensation for loss of rights / suffering | - | + | o | + | x | x/- | | | | |
| Development: | | | | | | | | | | |
| - defines development | x | - | @ | - | - | | | | | |
| - controls . building | - | x | x | x | + | x | | | | |
| . land use | x | x | x | x | + | | | | | |
| - specify standards and criteria | - | x | x | x | x | x | | | | |
| - anything not conforming to plan is illegal | - | x | x | x | x | x | | | | |
| - is standard throughout country | | | | x | | | | | | |
| - specifies use classes | x | | | | x | | | | | |
| - allows the influence of political process | x | x | x | x | - | | | | | |
| - allows exceptions / derogations for: | | | | | | | | | | |
| . agriculture | x | x | x | x | + | | | | | |
| . minor works | x | x | x | x | + | | | | | |
| . specified authorities | x | | | x | | | | | | |
| - allows direct L/A & Joint Venture development | x | | x | | x | | | | | |
| Legend: x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually @ = as defined in plan & regs. n = nominal Blank = appears silent E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands, L/A = Local Authority | | | | | | | | | | |

Table 3 Legislation & Regulation in selected European development control systems (sources: per 3.1)

Frank (1961) observes that English law has never been codified, i.e. assembled into one or two simple codes, or digests, although consolidation of some small branches has been undertaken. He considers

rational law could be created free from all past prejudices and deriving its context from "sublimated common sense". Its justification was to be found not in ancient custom or monarchical paternalism, but in its conformity to the dictates of reason. This 'Code Civil' has been described as an effort 'to consolidate the achievements of the French Revolution, to reconcile the customary law with Roman Law and to effect a sensible transition from the past to the present. Thereafter, throughout most of Europe, all aspects of civil law, including land use and building regulation, were codified. Germany and Switzerland replaced the Napoleonic codes with their own Civil Codes just after the turn of the 20th century and Italy departed from it in 1942 (Encyclopaedia Britannica , .1034 Vol.II).

the main difference between codification and consolidation to be that, in the former, the existing law is not only collected together but at the same time it is also altered. Codes are more than a mere collection of existing laws, representing in part a major piece of law reform. Consolidation, on the other hand, merely brings together in statute form legal rules which are spread widely in judicial decisions, customs, and statutes⁷²

ii) Current trends

While consolidation has long been a feature of the English legal system, from about 20 years ago, and broadly coinciding with the UK joining the EEC, which legislation it must now enshrine, a series of 'consolidation acts' began in earnest the process of reforming English law, converting much of it into regulations. Many legal citations now relate to these regulations dated in the 1980s or 1990s⁷³. Consequently, with the UK undergoing an apparent process of 'back-door' codification (see Ch.2), the notional differences between the legislative approach of countries may be diminishing.

iii) Codified planning systems

For Faludi (1987, 167-78) it was the struggle against arbitrary action by the authorities which led to codified planning systems. As against the freedom of choice enjoyed by absolute princes, and the privileged treatment granted before the law to both peers and clergy, the ascending bourgeoisie insisted that decisions should be based on agreed principles and universally applied to all similar cases (van Gunsteren 1976, 81-4).

In principle, therefore, the 'rules' of codified planning systems - comprising legal plans establishing the detail of what can be built and where, together with codes covering the regulations and procedures for their application - are designed to ensure that pre-determined uses of land will be implemented via bureaucratic administration. Discretion in the interpretation of regulations is minimal, controlled, and lies with officials not politicians⁷⁴. Appeals are possible only to administrative courts and only on grounds of maladministration, illegality or violation of rights. As Davies (1989b, 383) and Hooper (1989, G7.7iii) note, in the Netherlands and Germany the objectives of planning control are to safeguard, and eventually 'realise' the destinations, uses and provisions shown in the plan (Table 7, p.54).

iv) Building -v- planning decisions

Of the countries considered here, only England separates planning/development permission from building/construction permission. This recognises the distinct technical nature of the latter as against the more judgemental nature of planning application assessment, highlighting a very real difference in approach to development control. Since in mainland Europe development not conforming to the local

⁷² Here certain distinctions must be made. An English *Statute* may empower, say, a Secretary of State to make *Orders* which can require different levels of Parliamentary approval, depending upon the provisions of the 'enabling statute'. *Orders* may empower someone to make *Rules* and *Rules* may authorise the making of *Regulations*. Together these *Orders*, *Rules* and *Regulations* constitute so-called *Delegated legislation*. The terms are not interchangeable. (Tony Whittaker, 1997, solicitor's communication)

⁷³ Whittaker, Lesley. 1994. personal Communication with lawyer: (telephone discussion).

plan is illegal, it is possible that the specific standards and criteria applied to this may be overly concerned with technicalities of construction, obfuscating more fluid but non-the-less real planning considerations, a subject returned to in Chapter 4.

v) Environment & Employment considerations

Given the extent and importance of the European Community Directive on Environmental Assessments (85/337), it is surprising not to find greater reference in the literature to the way countries control related development.

In England this directive is implemented via the Town & Country Planning (Assessment of Environmental Effects) Regulations 1988 (SI 1199). This generally recognises the impact of any development on the environment as a 'material consideration' and may in itself result in the refusal of an application or the attachment of conditions to the grant of permission designed to minimise its impact (Williams, Wood, and Linn 1991, 97). It is for the Local Planning Authority to determine whether an Environmental Assessment (EA) is required, with appeals against such a requirement possible to the Secretary of State. Other regulations directly affecting development include the Water Act 1989, which makes pollution of water courses an offence, the Control of Pollution Act 1974 which, together with local by-laws, controls noise and vibration nuisance, the Environmental Protection Act 1990, which regulates air pollution, and the Health & Safety at Work Act 1974, governing dangers at and from work (Williams, Wood, and Linn 1991, 98,9).

Although, since the Environmental Impact law of 1976, the French have required two levels of such studies, according to size and location of development, Punter (1989,188,159) observed that in the 1980's employment issues took priority over environmental issues. (Davies 1989a, 356) remarks that in the Netherlands, a country particularly concerned with environmental impacts, a number of acts, or bills in preparation, deal with such matters, apparently via licensing systems or mandatory standards. According to (Hooper 1989, 282), whilst there is no single or specific environmental law in Germany, environmental aspects are contained in a wide range of laws and fields of legislation. However, (Gravells 1986, 404) notes that the implementation of the EEC Directive in 1988 meant a shift from a discretionary to a mandatory application of such environmental assessment practices for relevant development proposals.

3.4.2 *Résumé*

Regardless of common roots or other similarities, England stands apart from mainland countries by virtue of its constitutional and legislative background. This may have facilitated English separation of land-ownership and development rights, something which may cause greater tensions on the mainland. There, constitutional commitments and the principle of legal certainty protect private property and related rights against legislative mechanisms to restrain these. Conversely, the institutionalised

⁷⁴ It is a fallacy to consider that codification in some way renders argument as to meaning obsolete.

protection of the basic rights of continental citizen's may lessen tensions in this area, since codified regulations are designed to avoid politically-partial actions overriding these. Perversely, this may produce, or add to, tensions in other areas, for example where hierarchical plan structures conflict with objectives for decentralised land use, as pursued by politically-headed executives. When this occurs redress may be sought via the administrative courts.

However, in practice local autonomy may be constrained by local authority finances, these being substantially controlled from higher levels. Added to the fact that such minimal discretion as is available in the interpretation of 'rules' is in the hands of bureaucrats not politicians, this should support the limitation of arbitrary action by the authorities. This highlights a major difference between English and Continental development control, i.e. between the flexible interpretation of 'rules' and the strict requirement that they be conformed to.

This introduces a further area of possible tension on the mainland, where controls are designed to safeguard, and eventually 'realise' the destinations, uses and provisions shown in the plan. Accordingly, the specific technical standards and criteria applied may hide what might be regarded in England as planning considerations, either causing them to be overlooked or preventing them from being addressed. Additionally, 'ownership' may work against the ability of Continental systems to protect interests equitably more than in England. While this could suggest that mainland authorities fare no better than the English in securing any part of betterment value for the state, little seems known about how, or if, this is approached on the Continent. Likewise, it is not apparent how, or even if, any attempt is made to secure an equitable balance between conflicting interests, other than the implication that these are addressed when the 'rules' are made. Any real understanding of how mainland systems work in practice, is still absent.

3.5 Definitions, procedures and plans

Across Europe, *Development Control* is directed at a range of activities: demolition, construction, alteration, use of land, use of buildings, and economic activity to list only the more obvious. But, except in England and arguably France, 'development' is not clearly defined in the English literature⁷⁵ (Table 3, p.40).

3.5.1 What is development?

At the core of Britain's Town and Country Planning system a crucial definition of development establishes what is subject to development control. Although narrowed in several ways (Davies 1989b, 39), Section 22(1) of the 1947 Act, *et seq.*, defines development as:

'the carrying out of building, engineering, mining and other operations in, on, over or under land'
or
'the making of any material change in the use of any buildings or other land'.

Keeble (1983) fixes on this definition, the General Development Order, and the Use Classes Order

⁷⁵ The German Baugesetzbuch now defines *Vorhaben* as development (B. Davy, personal communication)

(pp.80-3) as being England's principal regulatory instruments. The absence of definitions elsewhere in Europe may in part be due to cultural (emotional) attachment to private property rights (see *Cultures and ideologies* p.36), possibly influencing authorities to merely indicate when it is justifiable to restrict these rights. Or it may be that such definition is only considered necessary where there is less certainty in the systems themselves. Whatever the case, in its absence, binding land use plans, where they exist, provide the basis of land use planning and control. Regulations substitute for them elsewhere (David 1987,16-19; Albers, 1973 #9, 6).

Even so, this appears not to aid clarity or certainty. For example, terminological and legal relationship differences in Germany cause difficulty with establishing exactly what 'development' is (Hooper 1989,273). Denmark is concerned with what building uses are permitted or not permitted (Edwards 1989,92). France addresses control of buildings, including their demolition and alteration, rather than land, but a range of further legislation controls most other activities involving land (Punter 1989,177-181). In the Netherlands, where no single, universal, comprehensive definition exists, development requiring permission is defined uniquely by each municipality. In practice this seems to focus on the promotion and control of the use of land and buildings (Davies 1989b, 384,349). In Italy, with philosophical, ideological, professional and bureaucratic argument centring around the economic importance of planning, the same problem of identifying 'development' exists. There, although the 1942 Planning Act requires the whole of each commune to be 'planned' (Scattoni 1987), the object seems simply the regulation of ways in which land can be controlled via building and construction works (Bastianini and Urbani 1975, 358-375) as provided in the 1865 Expropriation Act.

3.5.2 What 'rules' control development?

In England the planning and development system, currently reflected by the Town & Country Planning Act 1990 as amended, and by subordinate, amplifying legislation (Williams, Wood, and Linn 1991, 93):-

- ◆ does not fully apply⁷⁶ to agricultural, forest, mining and certain other classes of development
- ◆ * gives landowners presumed rights to develop their land, subject to regulations
- ◆ restricts these rights by giving judgemental discretion to local administrations requiring them
 - to make permissions subject to 'material'⁷⁷ considerations
 - to address public rather than private interests
- ◆ separates development value from land value
- ◆ * permits compulsory purchase and implementation of development by public authorities
- ◆ does not provide legally binding or zoning plans
- ◆ leaves plan making to 'theory' (process procedures) and formal 'guidance'
- ◆ is concentrated around the control of development
- ◆ * exercises control via elected county and district authorities
- ◆ subjects this control to central government override

⁷⁶ i.e. there are exemptions

⁷⁷ 'material' or significant (Williams, Wood, and Linn 1991, 94) considerations are defined in the Act.

- ◆ * prescribes procedures for obtaining permission to develop (planning permission)
- ◆ provides a planning system characterised by its flexibility

English 'rules' share only the four items marked * with continental Europe. With regard to the others:-

- ☒ Most countries other than Britain control all development via combined building and planning regulations..
- ☒ On the continent private development rights are defined in accordance with the requirements of written constitutions.
- ☒ Britain uniquely separates development value from existing or base⁷⁸ land value (Table 2, p.37).
- ☒ Although mainland local plans are the only plans which are legally binding, many are required to conform to a (notionally⁷⁹) hierarchical, tiered or 'nested' structure of plans up to national level.
- ☒ These higher level plans have different foci for control (see *Definition of 'development'*) which can only be challenged on administrative grounds through administrative courts.
- ☒ Mainland control is not subject to central government interference other than through the non-legally binding higher level plans⁸⁰.
- ☒ Apart from the need for rigid compliance with local plans and regulations, mainland development rights are not otherwise restricted.

However, this is an oversimplification since in all countries a number of legislative Acts accompany the main planning and development control regulations (Davies 1989b; Dieterich, Williams, and Wood 1993/4; Lichfield and Darin-Drabkin 1980; Williams 1984).

3.5.3 Plans

Major differences exist between English and continental approaches to plans (Table 4, p.46) and plan making. In mainland Europe plans are the premier instrument of development control, giving those countries plan led, 'conformance' systems. In contrast English 'performance' systems are policy led. Whilst higher level plans may be binding on local authorities elsewhere, this is not the case in England. English local authorities may voluntarily follow higher level plans, but there is no requirement for them to do so. In the other countries considered planning and land use frameworks are set at regional and national levels. Only in Germany are such plans binding on landowners. However, higher level non-statutory planning guidance is followed in them all. This effectively controls land-uses from national (in Germany *Länder*) level.

English local plans do not confer development rights, as they do elsewhere. Despite their *de facto* effect neither do they legally establish or change land use designations, as is the case in the other countries considered. However, all such plans have to be approved by some higher authority even if only nominally. Their making requires public consultation/participation, often economic and financial inputs, and sectoral concordance. They are a statutory requirement, but only in England and Denmark do they seem to be required to reflect current local policy. Peculiarly France, Germany and the

⁷⁸ For example agricultural, forestry, or other 'natural' use.

⁷⁹ For example in France the relationships between plans are not in practice hierarchical, the plans are not synchronised, and in the majority of instances the linkages seem non-existent. This is in part a reflection of the post 1983 emergence of regional plans and the *contrat de plan*, and in part the fact that the *Schémas Directeurs* are seriously out of date (Punter 1989, 207).

Netherlands appear to have no provision for the phased implementation of such plans over time. In Denmark and the Netherlands legal local plans even take precedence over local bye-laws, again a reflection of the technical approach to planning and development control noted above (see *Codified planning systems* p. 41). Providing proposals satisfy the precision which these plans usually seek, permits must be granted (but see *Flexibility* p.56).

| Comparison of selected EU development control systems | | | | | | |
|--|--|---|---|---|---|---|
| Plans | | | | | | |
| | E | D | F | G | N | I |
| - planning/land use framework set at national / regional level | x/- | x | x | x | x | x |
| Indicative / preparatory plans: | | | | | | |
| - cover all of L/A territory | + | + | + | x | + | x |
| - binding on municipality | - | + | + | x | + | + |
| - binding on land owners | - | - | - | x | - | - |
| Local / detailed land use plans: | | | | | | |
| - are a statutory requirement | + | x | x | + | x | - |
| - must include economic study & financial appraisal | + | + | n | | x | |
| - require sectoral, e.g. economic, concordance | - | x | | x | + | |
| - cover all of L/A territory | + | + | + | + | x | x |
| - establish or change the land use designation of a site | n | x | x | x | x | x |
| - require public consultation / participation in making | x | x | x | o | x | x |
| - provide the possibility of special planning zones | x | x | x | | | |
| - seek precision | - | x | x | x | + | x |
| - accord with higher level land policy | + | x | x | x | x | x |
| - follow higher authority non statutory planning guidance | x | x | x | x | x | x |
| - are legally binding | - | x | x | x | x | x |
| - must give phasing | + | x | | | | + |
| - take precedence over bye-laws / building regs. | - | x | | | x | |
| - are subject to review and periodic revision | x | x | + | x | + | |
| - must reflect current local policy | x | x | | | | |
| - must be approved by higher authority | n | + | n | x | x | x |
| - must conform to hierarchy of plans | | x | x | x | n | n |
| Informal plans: | | | | | | |
| - may be used for guidance | x | | | x | x | |
| Legend: | x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually @ = as defined in plan & regs. n = nominal Blank = appears silent E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands, L/A = Local Authority | | | | | |

Table 4 Plans in selected European development control systems (sources: per 3.1)

i) Plans, by-laws and ordinances

Lack of definitions of development (3.5.1) may also be linked to the continental emphasis on making legally binding local plans and regulation. England too shared this tendency until the post war period (Davies 1989b, 33). It was the 1947 Act which removed plans as legal instruments and left a great deal to subsequent statutory rules and orders, with by-laws or ordinances abandoned as no longer relevant (Keeble 1983, 75-8). In France, for example, it is not possible to make the distinction between legislation and subordinate legislation that is normally made in England. In France decrees and orders carry just as much legal weight as the laws themselves (Punter 1989, 151) Ministers and other public authorities, including in some instances the prefect and the mayor at lower levels of government, possess regulatory powers to complete the framework of the legislation by regulations (Brown and Garner 1983) and thereby plans. The same principle applies elsewhere, although usually

⁸⁰ Degrees of legality exist, e.g. Denmark's national urban, summer house and rural zones which enable the Minister to give certain directions and even call in applications. Also higher tier plans do not exist every-

constrained by national, provincial /regional requirements and specimen regulations, e.g. building regulations (Davies 1989b).

ii) Plans and development control

Davies *et al* (1989b, 27) make the important distinction that, in the four overseas countries considered by them (Denmark, France, Germany, Netherlands), the primary instrument of control is the building permit issued by the local authority, although as noted above (p.45) in reality the permit is secondary to the plan and related regulations. The same is true in Italy (Ave 1991; 1996). This permit covers both planning permission and that which in England is covered separately by building control. More fundamentally, strong and clear criteria are laid down for its grant or refusal.

In contrast with England, legally binding local plans which give detailed and precise regulations as to what is and is not permitted, confer legal rights. *"In general ... if the proposed development is in accord with building regulations and the local plan, it cannot be refused permission; if not in accord, permission cannot be granted."* (Davies 1989b, 27). This suggests that all questions of equity and the balancing of interests should be determined when plans are made and regulations enacted. Where no plans exist, this burden falls solely on regulations.

3.5.4 Administrative procedures and mechanisms

All systems address broadly similar administrative requirements and many procedural similarities exist. Whilst in one form or another applicants are required to have an interest in the land's development, although in England this tends to be *presumed, the scope and type of permits needed and requirements for making and determining development applications varies* (Table 5, p.49). Differences are often through informal practices and various means exist of making 'outline' applications to avoid the expense of a detailed application while discovering what will be permissible in advance of this. Applications are usually made by Architects or Engineers who, in certain countries, are the only people authorised to do so on behalf of clients, a subject explored further in Chapters 6-10.

Perhaps because mainland permits cover both planning and building requirements, whereas in England these are separate, a major difference is that continental systems seem to emphasise technical aspects, particularly those related to construction. In fact, as will be shown in Chapter 4, the technical staff who administer them often have a building or engineering background. Processing usually means only that they check that applications conform to plans and regulations, consult with applicants and specified organisations, sometimes at their discretion. For example in Germany, the requirement on officials to 'weigh and balance competing interests' and make recommendations, as distinct from giving advice, to those vested with the power of decision, which itself may often be delegated, may cause role-tensions (Hooper 1989,270,283,288). Applications must be determined within a specified time, usually between 2 and 6 months. In Germany the provision is for 'adequate time', usually taken

as 3 months (Hooper 1989,287). Fees are payable either with application or before permits are granted. These are then valid for periods of between 2 and 5 years. Provisions for publicity also vary and may be either before or after determination, but seem linked to notions of neighbour, citizen and third party rights of objection. In France, for example, these can be made within 6 months of grant of permits, via the administrative courts (Punter 1989,186). As in England such objections can only be made on grounds of illegality or maladministration (Williams, Wood, and Linn 1991, 91). Although, like the English, mainland Europeans may be consulted prior to decisions being taken, particularly for major or controversial developments, in general there is no provision for this since plans are legally binding (Davies 1989b). Unlike their English counterparts, who can appeal to the Secretary of State on planning grounds, the right of continental applicants to appeal is linked to the technical nature of the decision, depending upon illegality or maladministration. Unless the law is ignored, 'rules' determine development. Such discretion as exists for their interpretation itself being controlled by legislation.

3.5.5 Implications for research

In theory English flexibility enables interests to be assessed and balanced equitably in determining individual development applications while mainland systems require that this be done when plans are made and regulations enacted. As in England, plan approval involves public consultation and participation, often economic and financial inputs, and sectoral concordance, but their phased implementation is not provided for. Furthermore, only in England and Denmark does it seem necessary for them to be able to reflect current local policy. In contrast to English policy led 'performance' systems, continental plan led, 'conformance' systems have no scope for manoeuvre. How then can they accommodate policy shifts?

If, as seems clear from the consideration of constitutional and legislative approaches, the 'rules' are designed to secure implementation and be strictly observed (3.4.1.v), then theoretically no definition of development, as in England, is needed. Apart from complete revision of the plan, no provisions appear to exist for individual developments to move away from this. Any land use or development not envisaged by the plan-makers cannot be contemplated. Yet they still lack clarity, as with terminological and legal relationship differences. Given competition and the pace of change (1.3), the dynamics of development (2.2.2), the range of interests in development (2.2.3) and the new principles emerging in planning (2.3.2), how realistic is this?

Perhaps the literature presents an oversimplification since, in all countries, a number of legislative acts accompany the main planning and development control regulations. With decrees and orders being as effective as laws, with municipalities able to 'fill out', or complete, regulatory frameworks, and with both taking precedence over local bye-laws, perhaps these provide mechanisms for plan circumvention. English 'rules', it appears, share little with those on the mainland and English local plans

neither confer development rights or fix land-use designations. Perhaps mainland authorities are able to secure flexibility by using their 'rules' merely as justification for restricting property rights, enabling their subsequent use as 'bargaining counters' (Healey, *op cit.*).

This lack of information on areas of system detail and practice all come together in consideration of the development permit. Even though secondary to the plan and related regulations in importance, the fact that it is the primary instrument of control confirms it as the proper focus for research (1.6).

| Comparison of selected EU development control systems | | | | | |
|--|---|---|---|---|-----|
| Procedures | | | | | |
| | E | D | F | G | N I |
| Applications: | | | | | |
| - should be publicised | o | - | x | - | - |
| - must be from owners of an interest in the land | - | | x | - | |
| - designed by an architect/engineer | - | @ | x | x | |
| - may be 'called in' by higher authority | x | | | | |
| Fees are: | | | | | |
| - payable on application | x | | | x | + |
| - payable on award of permit | | x | | | x + |
| Decisions should consider:- | | | | | |
| - conformity to plan / regulations | - | x | x | x | x |
| - weight and balance of competing interests | | | | x | |
| - case officer's professional planning judgement | x | | + | @ | + |
| - case officer's site visit | x | | | | |
| - specified consultations, e.g. utility, highways | x | x | x | + | + |
| - aesthetics | x | x | x | x | x |
| - L/A planning policy | x | x | | | |
| - L/A's non-statutory policies | x | x | | | |
| - L/A's unwritten policies (the 'policy stance') | x | | | | |
| - Higher level regulations, directives and circulars | x | x | x | x | x |
| - potential water, noise and air pollution | x | x | x | | x |
| - practical planning ^ | x | x | | | @ |
| - precedent & impact * | x | | | | @ |
| - strategic planning * | x | | | | @ |
| - environmental impacts of (major) developments | x | x | x | x | x x |
| - neighbours opinions | | | + | x | + |
| - public opinion / objections | x | | x | | - |
| - must be publicised | - | - | x | x | - |
| Decisions are made:- | | | | | |
| - by officials | - | - | - | x | - |
| - by the mayor or proxy | - | - | x | - | - |
| - by elected politicians or proxy | x | + | - | + | x |
| - on the advice of permanent officials | x | - | - | - | x |
| - within a time limit for decision | x | x | x | @ | x |
| Decisions may: | | | | | |
| - involve discussions / negotiations with applicant | x | | x | x | x |
| - involve discretion in the interpretation of rules | x | @ | x | @ | n |
| - permit departures from plan | x | - | - | - | n |
| - be overruled by higher authority | - | | x | + | |
| - suspend consideration, e.g. where new plans proposed | | | x | x | x |
| Appeals are possible:- | | | | | |
| - to a higher authority against refusal or enforcement | x | - | + | - | + |
| - to the courts on legality of decisions or maladministration: | | | | | |
| . by those with direct interest in decision | x | x | x | + | x |
| . by third parties | x | + | x | - | x |
| Legend: | x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually @ = as defined in plan & regs. n = nominal Blank = appears silent E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands L/A = Local Authority ^ 'practical planning' = amenity, appearance, layout, access, transport impact, related/incompatible uses * 'precedent & impact' = on existing occupiers and other nearby sites * 'strategic planning' = quantity, distribution, location, phasing, financial viability, etc. of development | | | | |

Table 5 Procedures in selected European development control systems (sources: per 3.1)

3.6 Policy

That planning and development control are instruments of policy, is axiomatic. But whose policy and which channels are used to give this effect are somewhat less clear. Tiered plans potentially remove planning policy from the local level and hierarchical government structures can be used to intervene in how development is controlled.

| Policy | | Comparison of selected EU development control systems | | | | | |
|--|--|---|---|---|-----|---|-----|
| | | E | D | F | G | N | I |
| General: | | | | | | | |
| - requirements (but not objectives) of plans specified | | x | + | x | x | x | + |
| - presumption of "protection of public interest" | | - | - | - | x/- | x | |
| - aim to "create & maintain equivalent living conditions" | | | | | x | x | |
| - observes higher level policy / guidelines | | + | x | x | x | x | x |
| - separates political / policy plan making from dev. control | | x | x | x | | | |
| L/A: | | | | | | | |
| - administers higher level legislation | | | | | x | | |
| - recognises higher level directives/circulars | | x | x | x | x | x | x |
| - involves continuous process of state / private negotiation | | x | x | | x | x | x |
| - made locally by elected members and executive | | x | x | n | x | x | x |
| - regulations / definitions may be made locally | | - | x | - | n | x | x/- |
| - funding / grant provision from higher level may influence | | | | | x | x | x |
| - encouraged (financially) to be 'economical' with land | | | | | x | | |
| - tradition of municipal land ownership | | | | | x | x | |
| - have discretion over amount of detail in plans | | x | | | x | x | x |
| - use non legal plans as policy instruments | | x | | | | x | |
| Legend: | | x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually | | | | | |
| | | @ = as defined in plan & regs. n = nominal Blank = appears silent | | | | | |
| | | E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands L/A = Local Authority | | | | | |

Table 6 Policy in selected European development control systems (sources: per 3.1)

Most of the literature links European policy to the Public Health and Housing Acts of the late 19th and early 20th centuries, as governments responded to the effects of industrialisation⁸¹ (Ch.2). However, some countries claim much earlier roots. Gohier (1992, 16), for instance, cites moves in 1810 to regulate all 'dangerous, insalubrious or inconvenient buildings', as the start of French planning and France's first tentative steps to limit the absolute right of land-owners to build; Kunzman (1985, 17) claims that German building regulations have had similar policy objectives since the Middle Ages; and Lambert⁸² (1971, 14), that Dutch land-use planning stems from the need to defend hard won land from inundation in the 13th & 14th centuries.

Such long standing polices naturally shape systems of planning and development control, but their division into two distinct types has further implications. In England, separation of building from planning considerations and the use of flexible, guidance plans, allows permit decisions to take account of current policies (Table 6, p.50). In contrast, mainland pre-determined 'conformance' systems, implicitly require plans either to envisage and incorporate future as well as present policy, or to ignore this. With most countries specifying both the requirements of plans and that they observe higher policy/guidelines, this potentially sets the plan in conflict with higher level and local govern-

⁸¹ see for example Albers (1963) Cherry (1974) Ratcliffe (1976,16) Hamnett (1982) Konukiewicz (1982) Keeble(1983) Rysavy (1991) Hammersley (1993) Jacobs (1993).

⁸² Cited in McKay (1982,117)

ment policy.

For example, Bastianini (1975, 362) explains how Italy's 1942 Act referred to 'land-use planning' as essentially building within towns. For Bardazzi (1984,33) this Act's objective was to achieve effective control of private initiative for the commune and ensure that private developers gave due regard to social values. But Scattoni (1987) shows how, whilst originally planning encompassed the provision of healthy neighbourhoods, communications, expansion and building regulations, understanding of the term changed after the war and, from 1960 onwards, it came to mean the co-ordination of economic and urban planning. Likewise, while Gohier (*op cit.* p.15), writes that French planning law is currently applied to the "*creation, growth and rational organisation of human settlement.*", in Motte's (1993) view French national planning collapsed during the '80's (p.6), leaving no general concept to deal with such challenges. According to him, French planning today is concerned with European Spatial development and the promotion of economic policies, private enterprise and competition against other European cities (p.7 -11).

This indicates that supra-national policies can influence local development. For example, the 1986 Single European Act now obliges member countries to adopt European Community laws making, for instance, policies on economics, free movement of workers, free movement of goods, agriculture, social issues and harmonisation of particular relevance to planning and development control (Rudden and Wyatt 1989 edn.). Whether or not related, according to Healey (1993b), there are now widespread policies across Europe, reflected in the EC's *Green Book on the Urban Environment*, for the qualities of local environments, whether considered from an economic, environmental or social perspective. Nijkamp (1994) also notes that many countries, especially those in the EU, are increasingly facing new environmental legislation, with 'sustainable cities' becoming an increasingly important concern. Vignozzi (1993) for instance, comments that notions of 'sustainable development' are becoming fashionable in Italy. Germany and the Netherlands are concerned with living conditions (Dieterich 1996; Handler 1994); Denmark is concerned that land use should protect the country's nature and environment (Jorgensen 1995,5); Portugal's plans address 'quality of life and environment' (Vasconcelos and Reis 1993); Sweden targets the protection of the social and physical environment (Khakee 1993); Norway aims for national control of natural resources (Holt-Jensen 1993,7); and according to Neuman (1993,19) Spain is addressing multiple and simultaneous urban/regional, economic, fiscal, environmental and social crises of her regions.

As with the original policies, the implication of these is that they should benefit places if not specific neighbourhoods. But, if history is any indication, the danger is that new policies may become more and more abstract and distant from those they are supposed to serve. This threatens systems which depend on the administration of predetermined land-use 'rules' to ensure impartiality and fairness.

3.7 Monitoring & implementation

Linking policies with plans, this section examines the literature for the way both formal and informal 'rules' are implemented and the potential which exists for informality and discretion in these systems.

3.7.1 *Higher level systems*

In all countries informal control by higher levels of government is exercised by directives, guidelines and circulars. In England these have the effect of informal regulations, as for example with Planning Policy Guidance notes (PPG's). Whilst they have no power in themselves they can form a 'material consideration' in the event of an appeal or application for judicial review and therefore enjoy a coercive power.

Directives and circulars are similarly used in Denmark (Edwards 1989,138); in Germany where the *Länder* planning ministries issue circulars and advice interpreting policy and legislation and the Federal planning ministry prepares a Federal comprehensive regional planning report every four years (Hooper 1989,307); and in France, where the build up of case law defines the real limits of planning powers and the rights of those affected by planning decisions (Punter 1989,161,153). The highly diffuse Dutch system is co-ordinated through national government's monopoly of financial control, its advice and informal political relations with provincial and municipal government, decrees, statements of national planning policy, directives to provincial councils, provincial (regional) policy plans, *ad hoc* reports on physical planning, provincial orders to municipalities, and national ministerial policy decisions in response to appeals from administrative tribunals (Davies 1989b,344,350,372-3,380).

3.7.2 *Lower level systems*

In England the system of control is less of a regulatory system for implementing clear, explicit policies, than a discretionary system for achieving more general objectives, many of them far from explicit, for example, the use of certain *standards* as informal regulation in England, e.g. space standards, the criteria for which can be rather crude and may be subject to political decisions, theory or professional judgement (Keeble 1983, 108). On the continent these are covered by codified regulations, enabling applicants to know what the authority expects of them; a situation called for in England by Keeble. It means that, in addition to the balances to be struck between national and local interests, or conservation and development, in England - and at least with regard to more major developments - there is a more specific bargain to be struck between the applicant and the local planning authority. The process of development control in such cases thus becomes a process of discovering what is acceptable to both parties in the light of the current circumstances of time and place.

Much of this process lies outside the framework of the formal, statutory procedures (Davies 1989b,55). Although placing a burden of impartial consideration of development applications on planning officers, an important aspect of the English system is this ability to act informally. (Keeble 1983, 106) suggests that, in order to discharge this duty, planning officers should consider what pub-

lic or private interests are entitled to be protected through the planning powers, asking themselves *"Who is supposed to be protecting whom against what?"*

According to Davies *et al* (1989b, 27) such informal discretion seems unavailable through continental systems, where strong and clear criteria are laid down for the grant or refusal of a building permit. In fact examination of their country reviews suggests that possibilities for less than rigid approaches to these systems do exist. For example, in Denmark such discretion as is available is given to politicians (p.115); in Germany extensive consultation (to ensure conformance) takes place between applicants and officers (p.288); and only limited negotiation is possible in the Netherlands (pp.361-364); a situation well demonstrated by Thomas (1983a) and noted by Needham (1993), albeit these were of extra regulatory occurrences. While Punter (1989,204) claims that discretion is an essential part of control practice in France, this is only *"... the discretion to decide whether an article or regulation applies or not, (with) there ... often (being) discretion within the article itself (but since) The French controller of development is still required to interpret the complex rules and regulations ... this provides significant discretionary powers."*

3.7.3 How the 'rules' are, or are not, applied

Whilst official powers of enforcement (Table 7, p.54) are common, ranging from rights of inspection and ability to issue 'stop' notices, through fines and imprisonment, to demolition, the means and extent of their imposition is variable and, with the exception of France, little described in the literature.

In Italy several laws have raised doubts on the implementation procedures of planning law. These include the 1985 legal recognition of illegally built properties through the payment of a fine which, in Ave's (1991, 43) words, have made public and private actors *"totally confused"*. In Britain, with separate building and planning permits, the function is primarily the role of the building inspectorates who inspect every development at various stages. In France, although implemented by official visits, in reality only a sample of completed buildings are inspected. The really effective mechanism of control lies in the fact that it is the developers and architects responsibility to ensure that the code is adhered to, and action can be taken against them under civil law should any deviations be detected. In fact technical inspections by engineers working for major insurance companies ensure adherence to the regulations and, while minor deviations may be allowed, any significant anomalies would render the building unsaleable and uninsurable. As (Punter *op cit.* 192) remarks, *"... effectively there is a privatised building inspection service."* Additionally, in mainland Europe, as well as permits for development being required before works can commence, certificates of satisfactory completion are required before buildings can be occupied. As will be shown in Chapters 6-10, this provides a further bargaining tool for the authorities.

| Comparison of selected EU development control systems | | | | | | | | | | |
|--|---|---|---|---|---|---|--|--|--|--|
| Monitoring and implementation | | | | | | | | | | |
| | E | D | F | G | N | I | | | | |
| Development Control: | | | | | | | | | | |
| - is a specified municipal function | x | x | x | x | x | | | | | |
| - is via . land use plans | x | x | x | x | x | | | | | |
| . building regulations | - | x | x | x | x | | | | | |
| - requires inspection of works | | + | n | x | x | | | | | |
| - has plan realisation / implementation as a major purpose | | | | x | x | | | | | |
| - enforcement procedures are specified | x | x | x | x | x | | | | | |
| - follows statutory planning guidance | x | x | x | @ | - | | | | | |
| - controls development via regulations where no plan exists | - | x | x | x | x | | | | | |
| - covers listed buildings / conservation areas | x | x | x | x | x | | | | | |
| - may protect sites or objects (e.g. trees/monuments) | x | @ | x | x | x | | | | | |
| - allows the issue of 'discontinuance' of use orders | x | | | | | | | | | |
| - allows 'stop' notices to prevent further development | x | | x | x | x | | | | | |
| - allows L/A to order demolition if illegal | | | x | x | | | | | | |
| - enforcement penalties are specified | x | x | x | x | x | | | | | |
| - allows 'orders to construct' to be issued on owners | - | | | | | | | | | |
| - requires buildings to be maintained | | x | | | + | | | | | |
| Permits: | | | | | | | | | | |
| - may be withdrawn | - | | + | | | | | | | |
| - attach to the land | x | | - | | | | | | | |
| - required for sub-division of land | - | x | x | @ | @ | x | | | | |
| - required for planning & building separately | x | - | - | - | - | | | | | |
| - required for use | - | x | x | x | x | | | | | |
| - required for change of use | x | x | @ | x | + | | | | | |
| - required for demolition / alteration or other works on land | + | + | x | x | + | | | | | |
| - may be detailed or outline (or equivalent) | x | - | x | x | | | | | | |
| - may be for part of the works only | | | | x | | | | | | |
| - may be granted with conditions | x | + | x | x | x | | | | | |
| - may be granted by L/A in disregard of own policy | x | | | | | | | | | |
| - are granted tacitly if time limits are not observed | - | | x | | - | | | | | |
| - or licences required from other authorities separately | x | x | x | x | x | | | | | |
| - may be obtained via Private Acts of Parliament | x | | | | | | | | | |
| - incur taxes | - | | x | | | | | | | |
| Permitted development: | | | | | | | | | | |
| - must be commenced within specified time | x | x | x | x | | | | | | |
| - must be completed within specified time | | | | x | | | | | | |
| - must be notified to L/A before start / during work | | x | | x | | | | | | |
| Legend: x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually | | | | | | | | | | |
| @ = as defined in plan & regs. n = nominal Blank = appears silent | | | | | | | | | | |
| E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands L/A = Local Authority | | | | | | | | | | |

Table 7 Application of 'rules' in selected European development control systems (sources: per 3.1)

3.7.4 Non-conforming development proposals

Until recently it was assumed that development control in England (Britain) was based on rational, legal authority established in the provisions of the statutory land use plans, with the local authority acting as a judicial arbiter. However, as recorded above (*Monitoring & Implementation*, p.52) and as Simmie & French (1989, 19) note, there is evidence that this judicial model of development control has been superseded by a contractual model based on bargaining and negotiation in which, in pursuit of flexibility (see below), the planning authority abandons its impartial, third party stance and exercises a considerable degree of administrative discretion. This is due to the English 'rules' permitting the use of planning agreements⁸³. Although incorporated into the English system as a supplement or

⁸³ After several Local Authorities had obtained Private Acts of Parliament giving them wider powers to enter into 'planning agreements', originally intended to tie up the details of a development project, like land transfers for infrastructure construction, a school project or a park, The Town & Country Planning Act 1968 removed the need to get Ministerial approval for planning agreements. Subsequently this provision became Section 52 of the Town & Country Planning Act 1971, and subsequently Section 106 of the Town & Country Planning Act 1990.

adjunct to the regulatory system in the Housing & Town Planning Act 1909, this has grown in importance during the 1980's (Healey, Purdue, and Ennis 1992 §1.1). Three reasons behind this shift towards a contractual model are suggested by Jowell (1977): the wish of Local Authorities to take a share of development gain for the community; attempts to achieve broader social policies through agreements than would be acceptable to the courts via conditional permits; and a natural preference for solutions to be negotiated rather than based on immutable criteria.

Concerned with this trend, in 1991 the Department of the Environment issued circular 16/91 to clarify the 'rules of the game'. Enabling planning authorities to extract planning obligations, or '*planning gain*', from developers upon the grant of planning permissions, such obligations are seen as one way of resolving the problem of a development proposal which is basically acceptable, but to which there are real planning objections, with such an obligation being 'necessary to the granting of permission'.

The extent of such bargaining on the continent is unclear. Benfield (1991) showed how the French practice of '*participation*' both institutionalises the extraction of community benefits from developers and enables political and other donations to influence decisions. Hooper (1989, 301) indicates, that the Germans are not averse to using even non legally binding plans as 'bargaining instruments'. But where municipalities, especially as in the Netherlands, acquire the land, construct infrastructure and then re-sell to developers, the direct contribution element is absorbed within the process. Elsewhere, as in France, the cost of additional '*equipments*' - service and amenity provisions, e.g. schools, pools, libraries, parks, etc.- may be dealt with via direct tax levies on developers (Hooper 1989,291; Punter 1989, 202) and this gives authorities a significant influence over the control of development.

3.7.5 *Further implications for research*

Although the picture remains *confused* (3.7.3), it seems clear that supranational EU policies and national responses both to them and global change in general are having an impact at local level. However, whether this finds expression only through new plans and formal revisions, as should be the case, or via informal means which could be used to achieve English style flexibility, as suspected (1.4), is unclear. To the tensions noted earlier (3.3.1) must be added the emergent conflict between what appear to be the purely economic concerns related to competition and those for 'sustainability' and the environment, the latter being expressed in a variety of different national aims as well as at both European and local levels. Unfortunately, it seems that the original imperative that 'planning' should benefit local place and local community may have been reduced to a token as these over-arching policies become more abstract and distant from those who they are supposed to serve.

Aiding these shifts it appears that the channels of hierarchical and financial control may be supplemented by more informal political and professional networks. There is also the hint that graft may be present in some of these. In this it would seem that mainland systems may be better suited to achieving clear, explicit, top down policies than England's separation of technical building matters to allow

more abstract planning judgements the discretion and flexibility which suits their system for achieving more generalised objectives. The English system also makes clear how and where specific bargains may be struck between applicants and planning authorities and how they can be contractualised. By their nature mainland systems are constrained to hide such arrangements, if they exist, from view.

The need for research into mainland permit decision *practices* is further reinforced. In this Jowell's (1977) third consideration, that there is a "*natural preference for solutions to be negotiated rather than based on immutable criteria*" may provide a useful pointer. What, perhaps, would not be surprising would be to find legal local plans and other 'rules' in conflict with current policies and aspirations. But it does perpetuate the questions of if and how such conflicts are resolved, who by and through what channels and mechanism. These are returned to in Chapter 4.

3.8 Flexibility

Created in 1947, the English system is deliberately flexible with, in principle, each case being determined on its merits. In fact Keeble (1983) remarks that the detail of English plans is so vague that almost anything which may be proposed to be put within them becomes a matter for development control decision with, "*nearly every planning application ..(being) ... an exercise in detailed development plan preparation.*" (p.107,8) In other words, in England regulation becomes a process of *ad hoc* decisions (Keeble 1983; Lichfield and Darin-Drabkin 1980). Nevertheless, as Healey (1983, 25) observes and as evidenced above (*Higher level systems*, p.52), in practice discretion has been progressively limited in *interpretation* by central government, local government, and the courts.

In England, although plans cover the whole country, they do not include designations for specific locations in all parts of an area. Thus, effectively, they relate only to areas envisaged as developed or developable. By default, land not otherwise designated has 'agricultural use'. However, those continental countries considered require all land to be 'planned', or at least zoned (Table 2, p.37). That is to say all land is allocated a use type and these types are in turn covered by a set of appropriate regulations. In practice this leads to different degrees of flexibility being available. For example a prime area of discretion open to an authority for 'open zones' in Germany (§35 BBauG) is in determining the extent to which public interests will be violated by any development (David 1987, 26).

| Flexibility | | Comparison of selected EU development control systems | | | | | |
|-------------|---|---|---|---|---|---|---|
| | | E | D | F | G | N | I |
| G3.26 | - (non conforming) if legal exception / dispensation possible | | | | x | | |
| | - general plan elaborated when development imminent | | | | | x | |
| | - permit developments within general plan specified uses | x | @ | @ | @ | x | |
| | - grant permits in anticipation of a new plan | | | | | x | |
| | - turn a 'blind eye' to minor infringements if no objections | | | | | x | |
| | - plan defines areas and circumstances of flexibility | | x | x | x | x | |
| | - where legal plan absent | x | x | x | x | x | |
| Legend: | | x = yes - = No + = in special circumstances * = yes, but not currently enforced o = usually @ = as defined in plan & regs. n = nominal Blank = appears silent E = England, D = Denmark, F = France, G = Germany, I = Italy, N = Netherlands | | | | | |

Table 8 Flexibility in selected European development control systems (sources: per 3.1)

As has been seen (*Lower level systems*, p.52), even though plans in mainland Europe are binding, departures from regulations are possible (Table 8, p.56). For example, in Denmark the legal local plans may over-ride building regulations and either the building act may not apply or work may be exempt from this. But again this is usually only for minor development. While, as in England, for larger schemes the Danes may give discretion for politicians to relax controls and change plans (Edwards 1989, 107,111,115), as in France, Germany and the Netherlands, procedures are cumbersome and time consuming. In consequence, minor variations may just be ignored (Davies 1989b, 361). Non-conforming applications in Germany may receive permission subject to conditions requiring their amendment to conform, and partial permits may also be issued while negotiations over the detail of full permits continues (Hooper 1989, 288), enabling development works to start. In France modifications can be made according to the prevailing rules (Punter 1989,186). But in general, as Davies (1989a, 365) remarks of the Netherlands, flexibility in the building regulations and local plans is quite small. An exception to this comes with the new breed of Dutch 'global' plans under the Physical Planning Act 1985, which are designed to be more flexible, and follow headline descriptions which allow greater local discretion. These are linked to a process of decentralisation which has been gathering pace throughout Europe since the early '80's, a further theme which will be returned to in Chapter 15. As Thomas (1983a) observes of the Netherlands, today flexibility is defined in the preparation of the local plan. Similarly in Germany, where formerly most development and control was 'plan led', the trend now is to substitute alternative regulations for the formal building law (*Bundesbaugesetz*) which was relaxed in 1987, - especially sections 34 and to a lesser extent 35 - for binding land use plans (Hooper 1989,294).

Thus, it seems that while mainland discretion to interpret the 'rules' flexibly is minimal, compared with English practice, there are signs of pressures to move continental systems in this direction.

3.9 Summary and conclusions

In underscoring the need for the proposed research, this comparison has both helped narrow the focus for this and highlighted several implications for methodological and objective concern. These are addressed in Chapter 4. The initial assumptions (Ch.1) that, in mainland countries, land is allocated for development when plans are made, is confirmed. But the direction, control and functioning of the systems established to dispense these pre-determined plan-based decisions, remains uncertain. Systems may be technically robust and designed to constrain discretion (see Figure 7, p.58) but, in general⁸⁴, only theoretical explanations are provided of what 'rules' control development and how they relate to national cultures, constitutions, framing legislation and policy.

There appears to be a common assumption that mainland development applications will aim to observe the plan, with any negotiation, interpretation or discretion which does take place being directed

⁸⁴ Thomas' (1983a) Oxford / Lieden comparative study is a notable exception.

to this end. Major departures appear not to be envisaged by either mainland systems or, in the main⁸⁵, practitioners, including professionals, politicians, developers, interest groups or public.

Figure 7, p.58 summarises codified, continental conformance systems under which development permits should:-

- be issued by administrators in conformance with pre-determined plans
- not be subject to political or other interference
- restrict discretion and flexibility
- be enforced

| <i>Continental plan led 'conformance' systems</i> | |
|---|---|
| A. | Legislation should safeguard property rights, enshrined in written constitutions |
| B. | Land allocation decisions |
| 1. | - should respect these rights |
| 2. | - are taken in advance of development. |
| C. | These decisions are |
| 1. | - incorporated into a hierarchy of plans |
| 2. | - given the force of law in local plans |
| D. | Nominally under the control of local elected representatives, it is unclear |
| 1. | - what informs these decisions) or how equity & transparency |
| 2. | - who makes them) are provided for |
| 3. | - who takes them) in these. |
| E. | Legislation and supporting regulatory system are designed to:- |
| 1. | - safeguard and secure their implementation |
| 2. | - limit scope for interpretation, discretion & challenge, i.e. further decisions of principle |
| 3. | - for original decisions to be dispensed through bureaucratic administrative structures |

Figure 7 *Continental plan led 'conformance' systems*

With the main differences in approach to the control of development between England and the Continent being listed in Figure 8, p.59, the literature says much about what should happen when private sector development applications are made, but there seems little agreement or general understanding of how decisions on them are made in practice. Nor is much said about the actors, agencies, interests, relationships, pressures and issues involved in them, while the transparency and fairness of decision procedures seems to be taken for granted.

All the systems considered have broadly similar administrative requirements, time limits for issuing decisions and validity of permits, and powers of enforcement, although inspections and the imposition of these seem variable. As in England, higher level control on the continent is also exercised by fiscal measures and through directives, circulars and guidelines. Additionally political networks at provincial, regional and national levels provide informal means of control and influence.

Beyond suggestions of widespread concern over qualities of local environments, information on the influences behind related decisions is thin. Little seems said about environmental legislation, suggesting that concern for jobs may outweigh the environment in importance. Likewise laws and actions, like local taxes on developers and users, unrelated to development impacts on local land-use,

⁸⁵[Thomas (1983a) is an exception.

may take precedence over these. Overall, as anticipated in Chapter 1, it seems clear that major tensions at national and local level surround land use control in Europe. Furthermore, these may threaten the delivery of justice, fairness and even handed impartiality which appear to have originally been amongst planning and development control objectives.

| Differences between English & Continental European Development Control | |
|---|--|
| <i>English (discretionary)</i> | <i>Continental (Conformance)</i> |
| <ul style="list-style-type: none"> • no written constitution • land & development rights separated • development defined • development rights subject to legislative interpretation by judiciary • all land developable unless 'material reasons' against • land destinations considered case by case • land use and building permits separate • approval depends on 'balanced judgement' for each application • applications subject to professional planning judgement • permits granted individually by council • conformance in execution controlled by municipal planners • 'stand alone' local plan • statute rules • executive and political power divided • individual decisions overtly political but subject to professional (impartial) guidance • professionals advise but politicians decide on each application • wide discretion for officials & politicians • flexible plans open to change on each application • negotiation a common process, but no statutory provision for this • no development or direct local taxes (except community charge and business rate) • extraction of benefits for community individually negotiated (planning gain) • open ended control on building use, but occupation a public health concern • applicant only appeals against permit decision • judicial review in cases of suspected maladministration | <ul style="list-style-type: none"> • written constitution • absolute land rights • limited development specified • each development actively regulated • pre-determined plan defines development rights • land destination pre-determined in plans • land use and building permits combined • approval must be given if applications conforms to plan • applications subject to scrutiny for technical standards by officials • permits administered from plan by officials • conformance in execution controlled by project architect/engineer • local plan must conform to plan hierarchy • no distinction between legislation and subordinate legislation • executive and political power combined • political/executive decisions on individual applications constitutionally/regulatively avoided • pre-determined plan based land use decisions safeguarded & implemented • very small discretion for officials, none for politicians • legally binding plans do not provide for representation or consultation. Change cumbersome • negotiation permitted only by officials and within legal frameworks • development & other direct local taxes used to influence development • extraction of benefits for community institutionalised • completion and occupation certificates required before use • open appeals against maladministered decision |

Figure 8 *Differences between English & Continental systems (source: Author)*

Empirical research

- focus, design, analysis -

The development and conversion of land entails the *exchange of resources* in response to numerous changes and pressures. It is a lengthy and complicated process which contains many *events*, raises many *issues* and involves many *interests*. Key amongst these in liberal democracies are rights of ownership and duties of government. To manage this interface European governments have taken powers over land-use. As represented through the regulation of planning and development of land, the historical evolution of systems which intervene to direct and control these *private interests* and *public interests* divides them into 2 types; flexible Anglo-centric socio-economic systems and rigid Continental techno-design systems. Recognised as political, it is debatable whether these systems are an *integral aspect of governing* or a *separate function of government*. It is also unclear what, if any, intrinsic purpose planning holds. However, a commonly assumed condition is that all interests must be treated equitably. Public acceptance of planning's authority is closely linked to observance of *due process* to this end.

From the literature, mainland Europe's pre-planned, heavily codified, *conformance* systems seem more robust and able to achieve this than those in the UK, where there are calls for a return to a planned system. But, it is hypothesised, where major private projects are concerned, mainland practices may not achieve this objective. This hypothesis focuses concern on equity and transparency within mainland permit application and decision processes. If, it is argued, decisions are not just and fair when the stakes are high, they may not be so under other circumstances.

Revisiting the hypothesis in the light of the literature, this chapter clarifies the research task, discusses the project design, selects an appropriate method, and establishes tools for data analysis in order to reach a better understanding of mainland application and decision practices.

4.1 The Hypothesis revisited

Chapter 1 hypothesised that, influenced more by politics and markets than formal 'rules', decisions to permit major private developments in mainland Europe were neither transparent nor equitable. This questioned the effectiveness of local control of development and whether the instruments of plans and other rules which form individual national planning system are applied as intended and, if so, are sufficiently robust to secure implementation of the official plan. If they are not effective or properly im-

plemented, then the extent to which these 'rules' are modified and what gives rise to such modification is also questioned. Likewise the degree to which politics and markets influence them, if at all, is also in question.

The literature reviewed is unhelpful on most of this. Politics and markets are seen as important for planning, but mainland systems are hierarchically designed to protect against their undue influence and, by observing due process, secure equitable treatment for everyone. In contrast, the English system appears less positive or certain and to be more open to negotiation.

Given the prospect of alternative forms of continental land conversion, development process, project application and permit decision *practices*, as well as the local community focus identified, the hypothesis (1.5) is now revised as follows:-

"In mainland Europe, the processes of applying for and granting permits for major private developments (see 1.4) do not follow the 'rules'. Consequently mainland planning systems do not protect the historical rights and interests in place of local citizens and communities. Nor are they legitimate, transparent, or equitable"

4.1.1 Revised research questions

This affirms the focus on development applications and permit decisions but leads to the revised research question:-

"Do mainland application and permit decision processes demonstrate legitimacy, transparency and equity in relation to historical rights and interests in place?"

Linking the concern for 'equity' in these decisions with the intention of mainland planning and development control systems to secure the implementation of predetermined plan-based decisions, the following subsidiary questions address this more simply:-

1. PROCESS What are the application and decision processes and:-
 - a) how are applications to develop land produced?
 - b) which, if any, rules do they follow?
 - c) how transparent are the processes of application and decision?
 - d) how are development sites produced?
2. INTERESTS Whose interests are involved and :-
 - a) what equivalence is there between them?
 - b) what issues do they address?
3. DECISIONS Are decisions:-
 - a) influenced by particular practices, site or development considerations?
 - b) 'driven' by any other considerations?
 - c) equitable (just, fair, even-handed, impartial) to all interests?
4. BEHAVIOUR Whose behaviour is important to the process and is this:
 - a) influenced by any particular perceptions of the 'rules'?
 - b) morally 'good', e.g. respect freedoms, higher natural justice, and the co-operative good?

4.2 The research task

The research task can now be specified. To assess systems in mainland Europe it must cover several countries. To investigate application and decision processes and practices it must consider both pri-

vate and government actions. To account for different stimuli, levels and types of government intervention⁸⁶, it must look at several market sectors. To assess individual decisions it must look at individual developments. To determine if decisions do vary from the 'rules', it must allow this possibility by considering developments which are sufficiently important to municipalities. To consider legitimacy it must relate these actions to the different 'rule' systems and place these in the context of local cultures, customs and circumstances. To gain insights into what influences lie behind these practices it must look behind mere descriptions of events and determine what causes actors and agencies to take the decisions which lead to them.

To paraphrase Faludi (1994, 14), the task is "*...to analyse (development application decisions) as philosophers of science have done: as a dynamic process of interaction between the planning community and the outside world in which ideas play a crucial role.*" It is to consider what power the 'rules' have and what forces shape the decisions.

4.2.1 Inherent falsification

Mainland permits are required to conform to plans and regulations. For developments to be 'legal' this should be evidenced by the files. By simply verifying this and that formal procedures are followed (Davies 1989b) it would be easy to consider the hypothesis false and that continental systems implement 'the plan'.

But 'rule' departures, or non-conformance, may still be present, for instance if either the plan and regulations are changed to fit the proposal, or they are 'interpreted' to permit the application, or the decision is 'interpreted' so as to appear to be following these. It is also possible for an application to be presented using the 'rules' to secure permission even though the development does not follow the intent of the original plan and regulations.

Thus, falsification requires demonstration that the 'original' legal local plan and regulations, especially where regulations substitute for a plan, form the unequivocal basis for the permit decision. Since arrangements to alter or amend plans and regulations are considered to take a long time (Davies 1989b), the 'original' plan means that plan which existed before the development proposed was envisaged. Both the application and planning decision processes may, therefore, need to be considered over several years, with the reasons behind any changes in earlier plans being examined.

Conversely, for the hypothesis to be verified it must be shown that, at or after the time when the application was first contemplated, actions were taken by one or more of the actors and/or agencies involved which caused one or more of the events identified above to be consciously induced in such a way that a development permit could be issued. Alternatively it must be shown that the applicant devised the application in such a way as to secure a permit not in accordance with the intent of the plan and regulations prevailing at the time of the decision.

⁸⁶ see, for example, Forester (1989), Saunders (1979), Hall (1982), Ball (1986a), Erdman (1990)

4.2.2 *Uncovering practices*

The detective work involved in uncovering practices may entail dealing with some very sensitive issues. If the hypothesis is falsified, then there is no reason why all practices should not be totally transparent. If the 'rules' are all being observed in the spirit intended, then no-one has anything to hide. But if this is not completely the case and the hypothesis holds, then some degree of covertness can be anticipated, with actors and agencies concerned to guard their privacy. Here the word 'completely' is important, for it is in the nature of human behaviour that shortcuts will be taken in procedures, and 'rules' will not be observed to the letter. What is important is the *intent* of the parties; whether the object of their actions is to achieve the same purposes as the 'rules' or some other, possibly unrelated, end. The difficulty here is that whatever the intent, wherever some misdemeanour has been committed, however minor, those concerned will attempt to justify and put the best - the *correct* - 'gloss' on this.

To address this, local planning knowledge, language skills and cultural familiarity are needed. To obtain information from actors requires familiarity with property development, application processes and officialdom in order to understand and interpret terms and nuances. Such familiarity implies professional and industry experience as being desirable in order to get behind practices. Both aspects are discussed further in 4.5.1 & 4.5.2.

4.2.3 *Information sources*

Key in deciding which research method to use is its ability to gain access to any and all sources of information. But, with some advisors suggesting that municipal documentation could be sparse, almost non-existent in some countries, the type of information available on the continent was unknown. Additionally, because of the need for conformance, it was considered unlikely that municipal case files would record anything about the deliberations leading to the application, even less any 'loopholes' which might exist in the system and which the application may have been designed to take advantage of. To discover such details, those responsible for applications had to be approached. Additionally, it was not known to what extent any formal records of such matters could be expected to be maintained in the private sector. If they existed, it was probable that they would be considered confidential and unavailable for inspection. Also, by their nature the processes involved in reaching these decisions could span varying periods of time and might be expected to involve the merging of multiple discussions and deliberations, both formal and informal. Consequently, it was the memories of actors which were thought likely to provide most information, supported by such formal documentation as did exist and was accessible.

4.2.4 *The extent of the research*

Implicitly the hypothesis suggests that, no matter what differences between countries or types of development exist, providing the developments are major, private and subject to heavily codified planning systems, all decisions can circumvent the 'rules'. Thus, in contrast with research which seeks

cases with similar backgrounds, the widest possible difference between countries, locations and types of cases was desirable. Preferring cases from the four points of the European compass, for practical reasons of access and connection, England was selected for pilot study and bench mark comparison; with France, Germany, Italy and the Netherlands as the main continental countries. Taking advantage of unexpected opportunities, Czechia and Hungary were added subsequently

To avoid open ended time requirements and enable decisions taken within a specified period to be compared, decisions taken over the 5 years between roughly 1988 and 1993 were chosen with, to minimise loss of information and the possibility and/or impacts of plan and regulatory regime changes affecting the study, preference being given to the most recent.

To address the revised research questions over this range and period required the identification of the various actors and agencies involved. Some could be on the public record, but others might only be revealed through enquiry. Where public sector actors were involved, e.g. municipal officials, public records might evidence their actions. Likewise with politicians, where minutes of meetings should record decisions. Past and present local plans, policies, associated regulations and the way major private sector development applications were treated, also had to be considered. These should be a matter of public record but, in neither case, could such records be expected to show the full range of public and private issues, interests, opinions, and debate involved, whether formal or informal.

4.3 A framework for data analysis

Healey (1992a) cautions that *"Too early a categorisation in a research strategy could prevent (accounts of social relations) detail 'speaking for itself'"*. In contrast with the models of the development process discussed below (4.3.1), she offers four *levels* of analysis rather than placing the analytical emphasis on typologies of actors, events and interests. Adapted to this research, these levels are:-

1. A *mapping* exercise to describe the process in operation, focusing on *events* in the *application* process, *agencies* and *outcomes*.
2. Analysis of the agencies involved, identifying *roles* in the process and the *power relations* which *evolve* between them.
3. Assessment of the *strategies* and *interests* of actors, especially those most significant, in order to identify what governed the way different roles were played and relationships developed. This assessment may then be related to the *resources*, *rules* and *ideas* governing each case.
4. Consideration of what social conceptions informed the process.

The first two levels cover the basic empirical account, identifying significant events, agencies, relationships and outcomes. With power relations critical to an examination of roles, Healey suggests these may indicate actors' interests and strategies at the third level, although these are seen as varying for each agent according to the role or roles adopted and between agents during the process. The fourth level involves theorisation of the nature of and relationships between the modes identified. Healey counsels that without this the preceding analysis remains empiricist.

Acknowledging this danger, given the dearth of information on mainland systems, an initial requirement was the creation of a broad data-base on planning practice in several contrasting countries. From this, areas for more in depth inquiry could be identified. However, restricted resources - people, time and funds - as well as physical logistics, indicated a pattern of research which required both broad based and in depth data to be collected virtually contemporaneously. Healey's framework suits this well, the breadth of material first being synthesised for subsequent, more detailed analysis. Here, three tools are presented. Covering stages 1 and 2, they move analysis to the 3rd level.

4.3.1 *Rival propositions and idealised models*

From the review in Ch. 2 & 3, three rival propositions (Yin 1989 edn) emerge of how decisions might be taken in mainland Europe. Heuristically, the 'Plan driven' model (Diagram 3, p.65) illustrates the application and decision process if mainland 'rules' are strictly applied. Theoretically, development is controlled by permits only being granted for developments which implement the legal plan or, in its

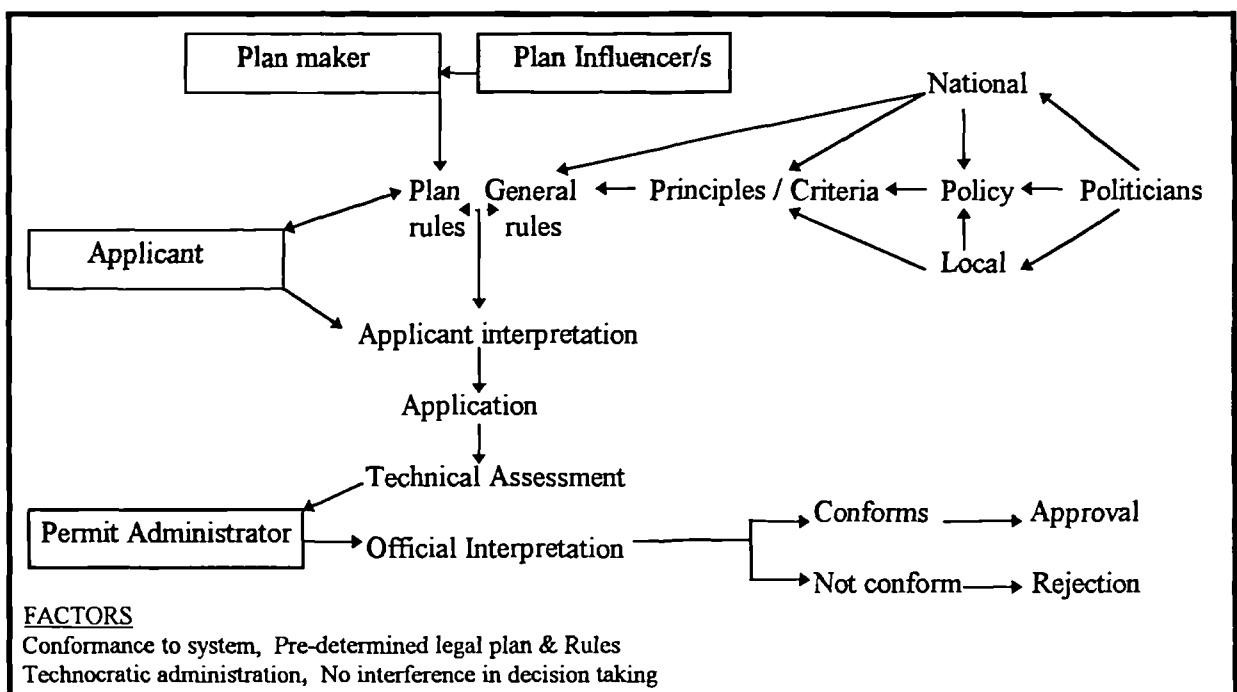


Diagram 3 *Idealised model of the PLAN driven permit decision process (source: Author)*

absence, follow other strict regulations. Applications are assessed, and permits for those which conform with these 'rules' dispensed, by technocratic administrators, supposedly without interference or further policy consideration. Policies should only be addressed in plan making and formal revision processes. In this way it is intended that all interests are addressed and protected equitably. If the 'rules' are effective in allocating land for major commercial property developments, then development outcomes should closely mirror these legal plans, making the system 'plan led' as the literature describes.

However, if politics and markets are more influential in permit decisions than the formal 'rules', as the hypothesis suggests, then decisions may be 'negotiation driven', as in Diagram 4, p.66. For this to

happen, independent technical assessment of applications must be influenced by the negotiation which takes place inside the 'Black Box' and which is not easily opened for scrutiny. Special interests may lead to the plan-driven system conformance 'rules' being reduced to bargaining counters inside this. If so, then the equity of decisions may suffer.

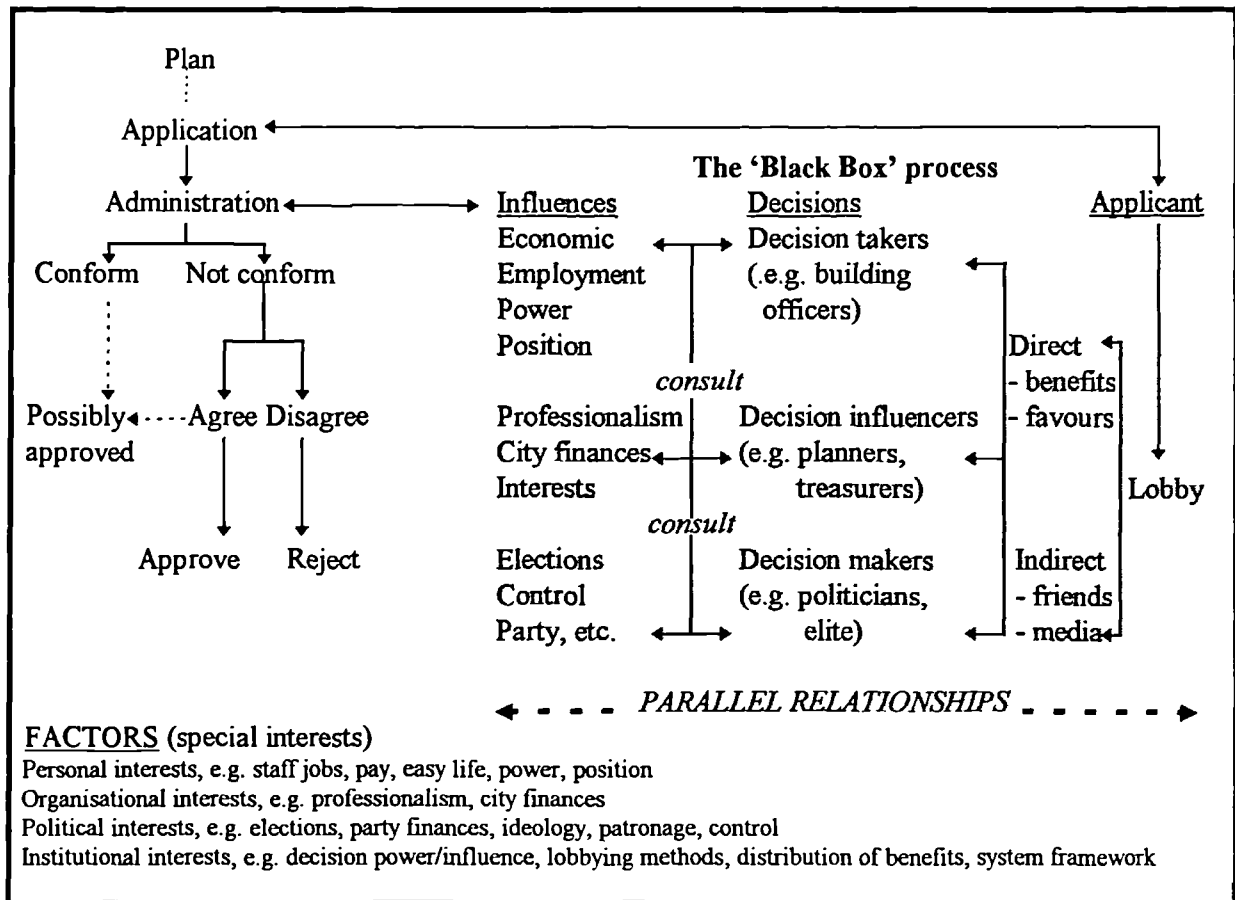


Diagram 4 Idealised model of the NEGOTIATION driven permit decision process (source: Author)

If reality falls somewhere in between, with current policy considerations taking the place of the 'special interests' of actors, then the decision process may resemble the English system. Seeking 'performance' rather than 'conformance' outcomes, in this case concern is with the ability of the system to deliver results in accordance with varying policy demands. Illustrated in Diagram 5, p.67, and presumed to weigh all relevant current and future interests in a democratic and just manner, this model treats plans and rules flexibly in addressing changing electoral issues and benefit requirements. Conformance and non-conformance are replaced by agreement and non-agreement in securing approval. Whereas in England permits issue from politicians, on the mainland this task would remain with technicians. Although susceptible to lobbying, an important feature is the relative transparency of all operations.

In summary, three alternative permit decision processes are envisaged:-

- conformance with the plan as 'rules' - the continental approach
- negotiation of individual permits - the hypothetical case.
- interpretation of the plan in accordance with current policy - the hypothetically adapted English approach.

Attempts to influence any process will be more transparent and legitimate in (a) & (c) than (b). However, this depends on an awareness of what the purposes of (a) and (c) are, raising the questions of how 'public interest' purposes are established and which model prevails. Thus these models form a basis for assessing mainland application and decision processes.

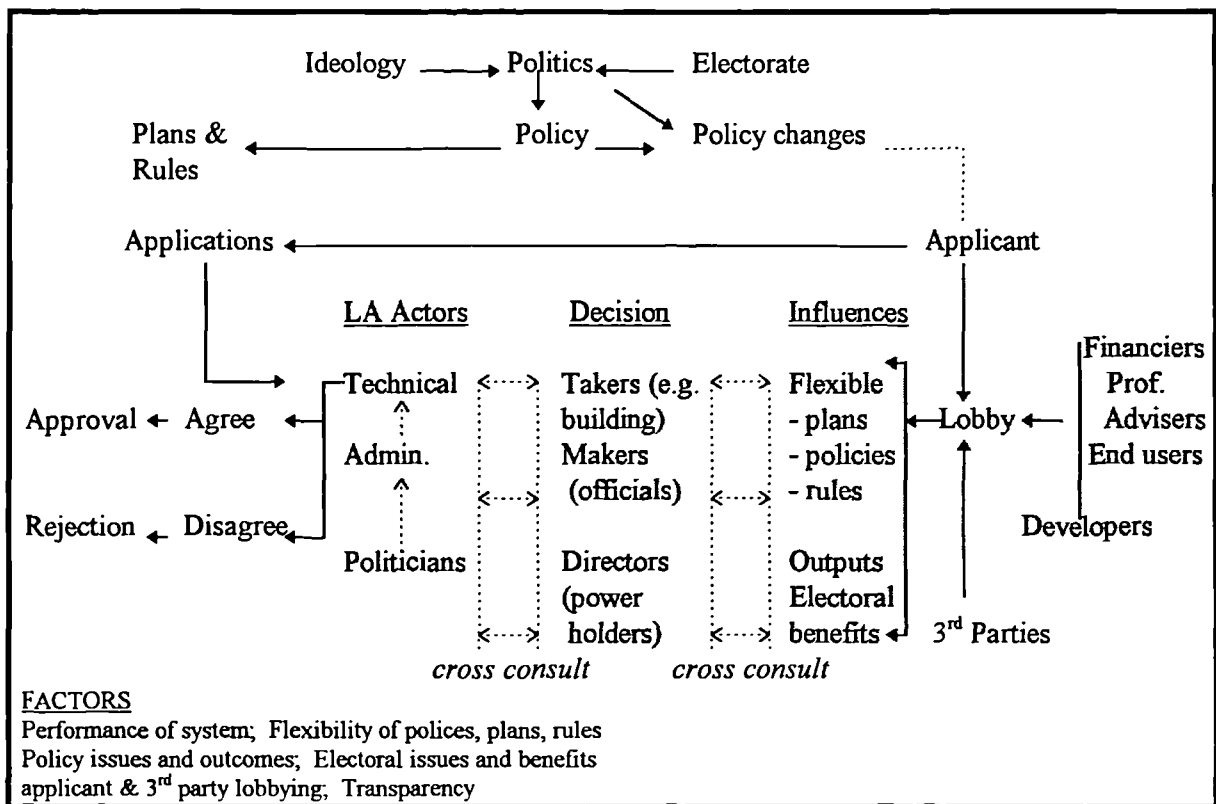


Diagram 5 *Idealised model of the POLICY driven permit decision process (source: Author)*

4.3.2 Locating decisions

Relating these three models to the *Dynamics of planning systems* (Ch.2) shows that the forces acting upon the decision makers - those who assess and advise on the application - and the decision takers - those ultimately empowered to legitimise subsequent development actions by granting a permit, are likely to change with signals received by local politicians from local markets as well as shifts in ideological perspectives. But, whatever pressures they are subject to, assuming the legal plan to embody equitable decisions, mainland permits should conform to the 'rules' and protect the public interest.

In the belief that land resources should be managed for local, historical, community interest in place (Ch.1), the concern giving rise to this research is that continental systems of 'rules', assumed to have been designed to this end, are substantially ineffective. To help assess what happens in practice, Figure 9, p.68 provides a heuristic matrix within which decisions to grant development permits can be located. The horizontal axis represents the degree to which 'rules' are applied. To the left a high degree of conformance and tight control over access to the process operates. Progressing rightwards, discretionary decisions relying on judgement rather than codified regulations are accompanied by checks and balances built into the system with negotiation increasingly characterising the process. The vertical 'interests' axis covers the gradation from local community and 3rd party interests, to gen-

eral public, broad political, commercial, and individual private interests. Local community interests embrace the collective social, welfare, amenity, fabric, and service concerns of residents and property owners in the area immediately impacted by any development. The extent of this geographical area will itself reflect the size of a project. For example a house extension may only impact upon the adjacent neighbours but, by increasing traffic, demand on utilities, services, amenities, etc., a 500 house project may affect a whole district. The interests of 3rd parties are very similar, but apply more specifically to the individual/s concerned. An inappropriate design or size of house extension could affect rights to light, outlook⁸⁷, value, etc. of one or more single adjacent owner/s. Thus, at the upper extreme lie local community and citizen interests - local historic interests in place - with 'rule' power supposedly protecting these, for example the property values and immediate economy. Moving downward these gradually become replaced by the distribution of benefits flowing from development and general welfare, followed by profit, personal and other private interests, secured by commercial power⁸⁸.

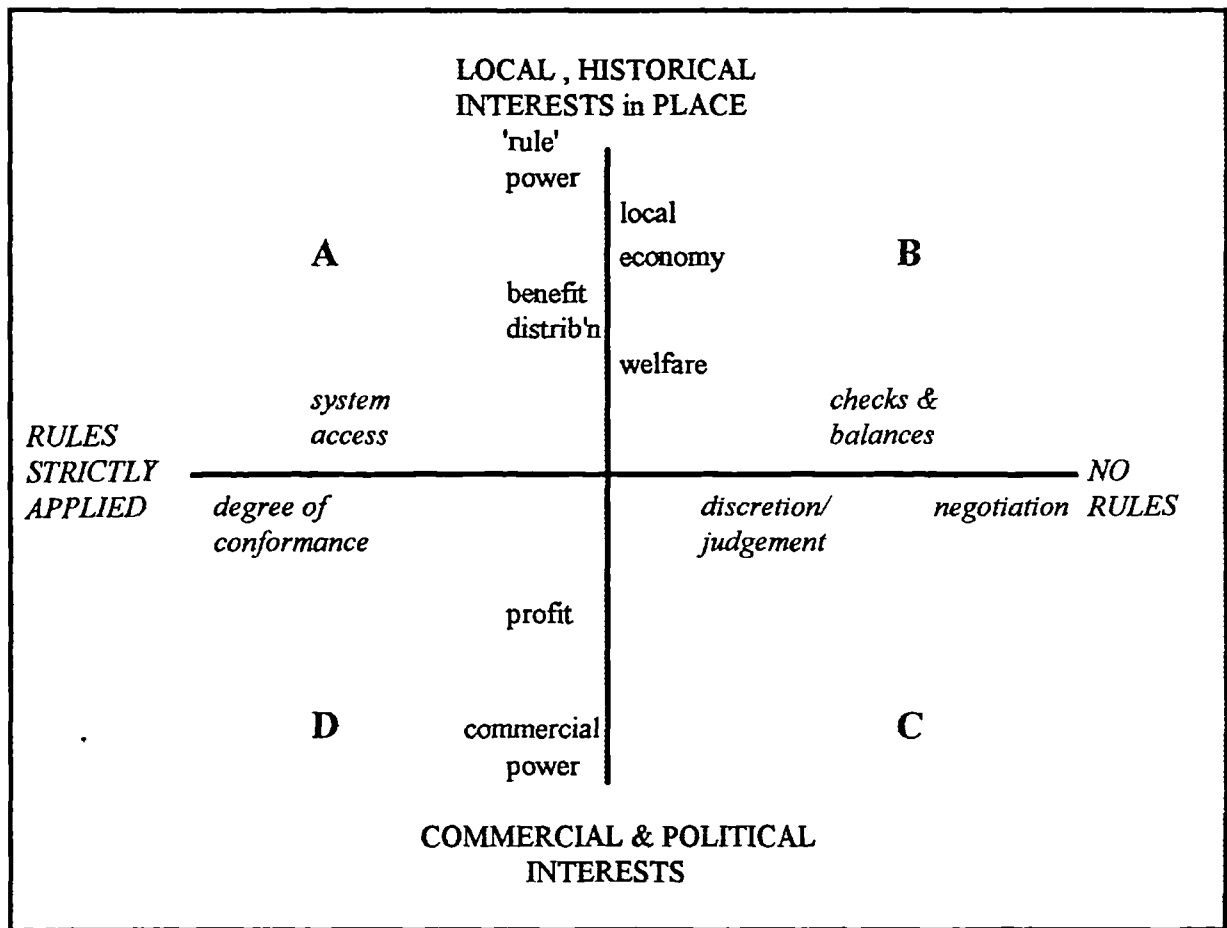


Figure 9: Power -v- Interests: (source : author)

4.3.3 Identifying factors in the decision making process

Emerging from the cases themselves, a number of factors are likely to be seen to be involved in any

⁸⁷ Such rights are not common throughout the countries considered, e.g. unlike their French cousins, English owners are not considered to have right to an established view.

⁸⁸ commercial power, i.e. the ability to deploy finance and other resources and to marshal a range of knowledge, instruments and legal capacities in pursuit of the profitability and growth of the enterprise.

decision process. By listing these and weighting them according to their perceived importance in those decisions (high 3, medium 2, low 1) and by simply counting the number of times they appear in any group of cases, they can then be ranked both by count and average weight over all cases in the group. The resultant ranked list may help understand the main factors influencing observed decision practices (see Chapters 5 - 11 for actual tables).

4.3.4 *Transparency and equity*

Both performance and conformance systems provide for decision processes to be equitable and transparent. Formal processes can generally be expected to be fairly visible, but how transparent the practices are is another matter. Covering official processing and rule observance, these will embrace informal arrangements and variations, if they arise, in both systems. How transparent or opaque they are may depend more on behaviour and motivation than systems. But the question of whether or not interests are equitably balanced varies with the system. In England it rather depends on who judges the judges, the system allowing individual assessment of each case. Conversely, continental legal plans notionally address all interests impartially in their making. If implementation assumes equitable treatment, implicitly departures must upset their inherent balance, being either more or less equitable. Both assessments require getting inside the practices and, if possible, the minds of those actors party to the decisions to discover their intentions as well as observing their actions. Thus, as with 'rules' and 'interests' any assessment is highly subjective. However, here certain criteria have been set (Ch.1). Transparency requires that all practices are fully open to public inspection to evidence that *due process* has been followed. Equity demands that all interests in a permit decision receive fair, just and balanced consideration, giving weight to historic interest in place rather than ownership or control over land. In part both form part of the location of decisions on the matrix. Therefore, for ease of assessment, each is rated on a scale from 0 to 10, that is nil to high equity or transparency. These assessments can be tabulated and illustrated graphically.

4.4 Selecting the research method

Guided by the main research question "*How do mainland application and permit decision processes demonstrate their legitimacy, transparency and equity in relation to historical rights and interests in place?*", the focus of this research is in the equity of permit decisions and how transparent they are. The need to examine processes which may extend over several years (4.2.4) discounts current time methods, for example where the researcher acts as an observer or participant observer⁸⁹. The need to delve beneath the surface implies a high degree of interaction and exposure, making personal surveys, questionnaires and other written responses which give limited opportunity for developing other lines of questioning or answers, inappropriate. It also effectively rules out reliance upon reviews of municipal and potentially confidential private documents. Since the unique circumstances of each situation may create special sets of initial questions, flexibility to take opportunities to develop

⁸⁹ see for example Banister (1994, 18), McNeil (1991,81), Gans (1962)

individual lines of enquiry makes personal interviews necessary. However, while they facilitate the opportunity for in-depth examination of appropriate subjects as they arise, in the interests of accuracy, evidence given by actors needs to be verified with other actors.

The only method thought likely to enable the required breadth and depth of information to be obtained, is the case study. This not only provides the opportunity to utilise parts of all other methods as appropriate, it enables interviewees to be approached as informants rather than respondents. This is desirable in order to uncover information which may relate to other actors and agencies in the particular case, and also to other cases, situations or circumstances which may prove of value in addressing the main research question.

4.4.1 Adopting the 'Case Study' method

Various works support the choice of the case study method. As Hakim (1987, 61-3) asserts, its ability to use a variety of data collection techniques and methods allows a more rounded, holistic, study than with any other design. Potentially overlapping with virtually all other research designs, it offers their combined and complementary strengths. Case studies are also suitable where relatively little previous research exists on the topic, or where social entities or patterns are thought to be typical, representative or average for the research. Both elements may combine in a single study. Such is the situation here. It makes the case study's combination of basic data collection with rigorous isolation of social factors or processes within a real life context, in order to provide a strong test of prevailing explanations and ideas (Yin 1989 edn), particularly attractive.

Furthermore, case study use of both closed, open ended and unstructured interview questioning techniques, is particularly suited for research on the elites, thought present in this research (4.5), and for cross national research, where spurious comparability of responses is a potential danger (Dexter 1970; Moyser and Wagstaffe 1987). As Yin (1989 edn, 17-20) states, case studies also deal with the operational links which need to be traced over time, rather than mere frequencies or incidents (see Ch.2).

However, case studies are not without dangers. Almost inevitably data produced will be incomplete. This may result from difficulty in gaining access to the full range of documentary evidence and some or all of the actors and agencies involved. But it may also be because these in themselves may only be partial. Files may not be complete, records or papers may have become detached and lost. Memories will at best recall only one perspective, interviewees may consider some information unimportant and not worth telling, or they may simply forget some aspects, or not release certain details for commercial or other reasons, e.g. self protection. Even worse, dishonest and deliberately misleading information may be given. Additionally, handling the vast quantities of data produced by case studies can prove problematic. Last but not least, if little research into planning and development *practices* has been conducted on the mainland, the use of case study research may be unfamiliar to researchers

and/or assistants there and, as Hakim, *op cit.*, warns, the value of a case study depends crucially on how well the study is focused.

4.4.2 *The appropriateness of Multiple Case Studies*

To achieve satisfactory comparisons the method used needs to be replicable across cases and countries. Here the case study design has further advantages. Not only is greater depth gained from multiple-case studies (Yin 1989 edn, 18), but confidence in their generalisability increases as the number of cases increases (Hakim 1987, 64). Furthermore, if substantial numbers of cases are involved, the logic of statistical inference begins to complement and even replace the logic of analytical inference from a small number of carefully selected cases (Yin 1989 edn, 42-53)⁹⁰. As Sudman (1976, 26) notes of *surveys*⁹¹, confidence in the general significance and robustness of research findings increases with the number of sites in which it is conducted, although the largest single gain occurs when the number of sites increases from one to two.

4.4.3 *An Experiment*

As distinct from a natural experiment, it is tempting to see a multiple case study project as an 'experiment in nature'. By repeated application across many cases, the design can be shown to be fully replicable. Parallels can be drawn between laboratory research and field work. In the former, one experiment is repeated time and again to see whether consistent results can be obtained. Repeated case work, albeit on different subjects, in different locations, in different circumstances and with different 'lab technicians' (the Research Assistants, or RA's), provides a similar opportunity to consider what, if any, factors are recurring, in what form and in what patterns.

While laboratory experiments are seen as creative, working on things in present and future time, the field work here observes past events, rather like astronomy, over which one cannot have any influence or control, in present time. Arguably this type of research may be more scientific than laboratory experiments. Whereas these may be subject to (unintended) observer/experimenter influence (per the anthropic principle⁹² element of quantum theory), the research team for a historical project can have no such influence on decisions which have already been taken, however remote or unintentional. Although they may suffer from observer bias, the use of many different 'experimenters' or 'lab technicians', particularly if from different educational and cultural backgrounds in different countries, should make this self cancelling if carefully directed.

⁹⁰ see also Glaser (1967), Mitchell (1983)

⁹¹ Although a case study is not the same thing as a survey, but may include one or more surveys, the inferences holds true.

⁹² The principle that an observer or experimenter interacts with the subject matter in real time. Thus "*In a looking glass universe, the observed and the observer are codetermined. If obstacles are placed in the way of an ensemble as it unfolds, effects and causes interweave with each other. A paradigm shift changes the data and the actual process of our looking changes nature's laws.*" Briggs & Peat, *The Looking Glass Universe*.

4.5 Designing the cross-national project

"Generally speaking, we know more about the poor and powerless than we do about the rich and powerful"
(McNeil 1991, 13)

As McNeil (1991, 71) notes, since some groups have the power to refuse access to researchers, it is no surprise that there are few ethnographic studies of powerful decision-making groups in business or politics. Yet it is potentially with these elites that this research is concerned (see 2.4).

4.5.1 Challenge and concept

Given the need for such information, finding ways to obtain it without recourse to huge resources was seen as an exciting and important challenge. Going beyond the more obvious endowment constraints (time, money, personnel, material resources) the difficulties lay in gaining access to informants, confidentiality, and even in possible danger. Additionally, lack of fluency in appropriate languages, poor familiarity with systems and cultures, the need for local knowledge and as already noted (Ch.3), in Hooper's (1989, 255) words, facing *"... the greatest danger in comparative analyses of this type ... the temptation to identify phenomena to be compared through the blinkered perspective of one country"*, stimulated the search for a way to 'break the resource barrier'.

Within the challenge lay the solution. If local property/planning students could be used as RA's, this could satisfy language, cultural and local knowledge criteria (4.4). Their assistance could also help in handling the potentially very large amounts of information (4.4.1). If the project could be made personally attractive to them, possibly relating to their own interests, this might reduce the cost of their engagement to manageable proportions. But how to contact and attract them?

Apart from devising and developing the pilot study, the Researcher had little if any more knowledge and experience of academic research methods and practice than could be expected of RA's. But, drawing upon his experience and training in industry and commerce, the concept of integrating business management techniques with sociological tools to address these and other research issues, emerged. The objective was to seek to add a value to the research greater than the sum of these parts.

4.5.2 Collaboration

An important feature in designing the study was the informal involvement of European planning schools as collaborators in resolving these issues. Setting out potential benefits to them and co-operating students, invitations were sent out to a number of AESOP⁹³ member establishments in early 1992. Circa 42% acceptance rate was obtained. Without incurring work commitment on the part of individuals involved, the aim was effectively to incorporate them as independent 'advisors' or 'consultants', able to assist the work in various ways. For example, resolving problems of access to institutions, libraries or other sources of information, providing specialist advice on specific difficulties, or offering alternative solutions to unforeseen problems (Hakim 1987, 167). The provision of

⁹³ Association of European Schools of Planning

facilities for the Researcher to meet and train RA's and maintain ongoing communications with them (fax/phone/messages) was a further important consideration.

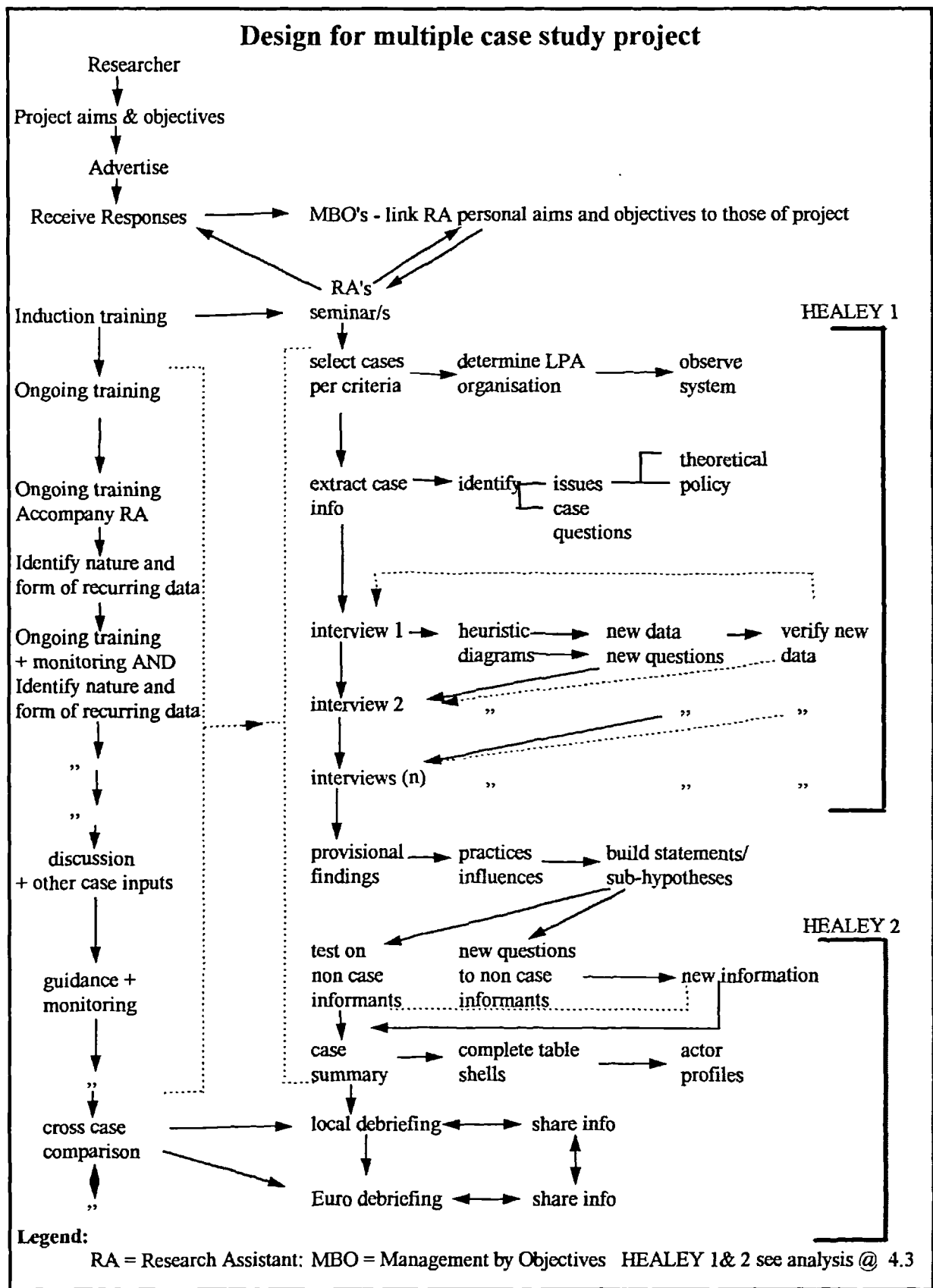


Figure 10: Design for multiple case study, cross national research project (source: Author)

The theoretical knowledge of RA's about their own countries planning systems could be expected to

be high, but their knowledge of practice, research and experience of interviewing was anticipated to be low. Therefore, an important design concern was to devise a means of providing this knowledge and experience. Training was seen as a vital, yet difficult to deliver, element. The need to slot this and the research into RA's existing study programmes stretched the availability of time from both sides. The content and objective (McNeil 1991, 39) as well as the appropriate amount and proximity of training at the start of actual research (Fowler and Mangione 1990, 118), had to be determined. Assuming lack of continental familiarity with the case method (4.4.1), a range of procedures and tools was also required to assist RA's in their tasks. Since all of this needed to be standardised and easily understood⁹⁴, over sophistication was avoided - at worst, simple techniques would not have an adverse affect.

To achieve these objectives, overcome the difficulties outlined and obtain meaningful data, placed a heavy burden on the design of the study (Figure 10, p.73). Using the pilot studies (4.6) to elaborate and perfect the concept, as Hakim (1987, xi) counsels, this was regarded as the first and in many ways most significant step in developing the research proposal. Obtaining the informal, non-engaging collaboration of mainland planning schools, was also a vital step.

4.5.3 *Research Associates (RA's)*

With collaboration secured, the challenge lay in creating a flexible project able to satisfy and appeal to a wide range of student needs and interests. Advertised through the planning schools, applicants ranged from 3rd and final year planning undergraduates in the Netherlands, through recently qualified planning graduates in the UK, to Masters and Diploma students for Italy, France and Germany, where there was also a final year planning undergraduate, and doctoral candidates in Czechia and Hungary. Aged from 22 to 30, the majority were around 25 years old and their base disciplines covered planning, geography, economics, politics/international politics, history, law and geo-architecture. Most had at least some previous work experience involving inter-personal skills. With the possible exception of some of those involved in the pilot study, all demonstrated a real interest in participating in the project for reasons connected with personal aims rather than mere financial reward. In this respect they were self selecting, in line with the recruitment objectives. Appendix 6 provides a schedule of RA's, their qualifications, courses, interests and cases.

By linking case objectives with RA objectives⁹⁵, RA's were encouraged to pursue their own interests within the prescribed framework. This added significant advantages, providing an interdisciplinary capability able to deliver new insights on case data and for testing in subsequent case studies. Additionally the widely expressed concern⁹⁶ for interviewer bias was minimised, this inclining toward self correction over a large number of cases with interdisciplinary interviewers (4.4.3). Samples of local

⁹⁴ The purpose was to deliver training for the task, not provide an instruction course in management, personnel relationships, sales, motivation, etc., although elements of these were all required.

⁹⁵ i.e. adapting a 'Management by Objectives' (MBO) (Drucker 1955) approach to the research project.

⁹⁶ e.g. Yin (1989 edn), Hakim (1987), Hammersley (1990), Fowler (1990; McNeil 1991)

project and RA objectives, disguised to protect confidentiality, are provided in Appendixes 1 & 2.

4.5.4 *Leadership & Teamwork*

An important message, delivered to RA's at the outset of their involvement, was that the success of the project depended upon teamwork. As a team member, each RA was seen as having valuable experience, viewpoints and information to contribute. Stress was laid on the fact that, since by its very nature the research project sought new information, everyone had both the right to be ignorant about certain aspects of the study and the opportunity to learn, individually and collectively, as it progressed. Consequently the principal Researcher was projected as an 'action centred team leader', but equal in other respects (Smith 1969). In practice this meant ensuring that the required *tasks* were continuously achieved, meeting the *group needs* for teamwork and team spirit, and meeting the *individual needs* of each member of the research team, as well as engaging in the research itself.

At first sight delegation seems to be one of the simplest of leadership techniques. But, like any other effective action, it requires careful planning (Basil 1971, 82-93). The project design therefore attempted to anticipate those tasks that needed to be delegated, organising to permit the smooth flow of these. By combining the alternatives of a *research team of formal equals* with that of a *collaborative research team* (Hakim 1987, 166-7), steps were in-built to pre-empt possible problems of conventional, hierarchically organised research, such as 'hired hand' rebellions (Roth 1966).

4.5.5 *Communications*

Effective team leadership implies forming and maintaining close relationships with team members. Personal contact by the principal Researcher with each RA was, therefore, essential. In part this dictated both function and operation, requiring travel to meet, train and guide all RA's. Combined with other aspects of the research - absorbing culture, gaining local insights, etc. - this involved a considerable communications exercise⁹⁷. Thus, effective communication was a major prerequisite of the design. The exercise of leadership skills required two-way communication to perceive, to motivate, to counsel. The elimination of barriers to communication - hierarchy, role expectations, pre-judgement, and egocentrism - required the conscious and deliberate application of leadership skills to this process (Basil 1971, 112). Filters and barriers, such as attitudes, facts, seating arrangements and so on, needed minimising (Basil 1971, 112-33); and feedback loops, essential for good, two way, communications (PA Management 1975), were built into all procedures. Combined with the liberal use of telephone and fax, these management techniques proved invaluable in maintaining good, clear, open links with all RA's for most of the time.

4.6 *The English Pilot studies*

Conventionally, pilot studies aim to test and revise initial assumptions in advance of a main study. Here, the need to develop and test case study and project design were of equal importance. To the

⁹⁷ A useful check list of relevant actions to be taken is provided by Garnett (1971,31) writing on the manager's responsibility for communication.

extent that both could be done under the different English system, they were. All methods, tools and forms were developed and tested in practice by the Researcher through documentary reviews, complete case studies, accompanying RA's on selected interviews, progress checks, and individual and group de-briefings.

4.6.1 Individual case study design considerations

In this research, individual cases were not of interest *per se*. They were simply the windows through which the research subjects could be examined '*from the inside*'. Here two distinct processes were involved; that through which an idea became a development application and that through which a (regulatory) decision was made on this. By entering the process at the point where the application was submitted, the development idea could be traced backwards to its origins and the decision process followed forward to the grant of permit.

To achieve this, various decisions had to be made. For example, deciding which development was of importance, assessing whether an application was within or without the letter and/or intent of the original plan, and identifying the forces operating on both application and decision. All required local knowledge as well as documentary and interviewee evidence. Having done this, openings needed to be found for in-depth investigation. Thus, accepting that much information might prove superfluous, the range and nature of enquiries had to be broad. With five categories identified (4.6.3) the possibility arose that different kinds of material might need to be collected for different cases. Given the inevitable disparity in information, as well as the potential for this to be incomplete, the widest range of data was desirable to allow possibility for cross comparison. Also, if the nature and availability of evidence was limited (4.2.3), a broad base of cases needed to be established to allow potential for comparison. With the volume of material always a problem where the case study method is used (4.4.1), all of this suggested the probability that very large amounts of information might need handling from each of the seven countries.

4.6.2 Selecting locations

Given the need to discover what information could be unearthed and the need to test both capability and transferability of case and project design, two pilot projects, each involving several cases, were conducted in England. As full projects rather than single pilot cases, they provided data from the UK for use in subsequent comparisons (see Ch.5). Unlike the main project, where dissimilarity in locations was desirable (4.4), at this design stage similarity and familiarity were preferable to help identify any operational differences. Accordingly industrial cities with similar urban structures and arrangements, transport linkages, political regimes, economies, and population sizes⁹⁸, known to the Researcher, were chosen. Located several hundred miles apart they enabled differences in the way local politics and markets are treated, and how they affect applications, to show through.

⁹⁸ Coincidentally they also had mixed race populations.

4.6.3 Case selection

Having identified the cities, formal letters outlining the nature of the research and requesting access to files, nominal assistance of officers in clarifying queries plus their co-operation as interviewees, were sent to the heads of the municipal departments to which applications were made. With the aid of these officers, lists of applications linked to common categories, threshold size for importance, and time span were produced. 'Rule of thumb' criteria established with them set 'major private developments' (1.4) at or above 3,000 square metres built area, 30 residential units, or 1 hectare or more of land. With the objective of containing all English and mainland cases within the same approximate five year time span, per programme (Figure 16, p.91), those determined since 1987 were chosen. Preference in selection for study was given to the largest. Additionally, five main types of development; commercial, industrial, leisure, residential and retail, were identified. Drawing on the Researcher's local knowledge of each city, a number of cases in each development category were selected from the lists and the municipal case files for each case obtained for inspection.

While these criteria may disproportionately emphasise certain aspects in relation to all developments, like the range of higher level authority interest and involvement, or bargaining and commercial dealings, these aspects may not be present in public or smaller projects either. Furthermore, public sector schemes may underplay commercial interests and, because municipalities may be both permit givers and developers, overlook any of these considerations. In contrast, small schemes may be insufficiently important to warrant variations and have no option but to follow the 'rules'. Yet, even if these follow due process and gain transparency, this does not mean that they are any more equitable. Because major private projects are likely to involve all these aspects, it is believed they provide a reasonable test for the general robustness of the 'rules' and their ability to deliver 'equity'.

4.6.4 Document review

Initially each file was considered in detail by the Researcher to identify the processes, actors, forces, etc. (4.6.1) and any patterns repeating within these. Progressively a format for searching local authority documents, which incorporated an assessment of local authority practice in relation to the case, and a profile of the department responsible for the process, was built up. This provided a large volume of generally well ordered, information, for example: the application, statutory and other consultations, inter and intra departmental memoranda, correspondence with applicants, their professional advisors and interested third parties, officers' file notes, notes of objections and support, officers' recommendations, and so forth. On completion of the document search, and as part of this process, a series of questions were posed to the data obtained. These were designed to cross check the departmental assessment and profile, identify principal and supplementary actors, and to establish a range of case questions. Over several cases a range of standard questions became apparent, to which other case-specific questions could be added.

On the mainland, since such material would be in the local language and formats, local assistance

would be required with the search. Accordingly, as part of the development of the research design, in the second city a UK assistant worked alongside the Researcher to extract details from case files, enabling the forms to be adapted for use by others. In this way eleven cases were chosen for the UK pilot project (Table 9, p.78), all exceeding the minimum criteria established (4.6.3). Copies⁹⁹ of the completed *Document Search* forms were then given to RA's to pursue investigations. Lack of developments matching all selection criteria prevented the same types of case being conducted in each city.

| Case Ref: 'Weston' | Type | Description | Project Size |
|-----------------------|--------------------|--------------------------|----------------|
| E-01 | Leisure | Hotel | 2 Ha. land |
| E-02 | Commercial | Showroom + office | 3 Ha. land |
| E-03 | Residential | Executive housing | 10 Ha. land |
| E-04 | Mixed: Com/Res/Ret | Shops, offices + flats | 3,100m2. built |
| E-05 | Retail | Superstore | 5,500m2. built |
| E-06 | Leisure | Cinema + restaurants | 2 Ha. land |
| 'Eastville' | | | |
| E-07 | Mixed: Res/Ret | Aged Housing + shops | 20 Ha. land |
| E-08 | Mixed: Ind/Com | Light Industry + office | 11 Ha. land |
| E-09 | Residential | Mid range housing | 7 Ha. land |
| E-10 | Retail | Superstore + retail park | 12 Ha. land |
| E-11 | Mixed: Ind/Res | Atelier workshop/flats | 3.5 Ha. land |

Table 9 UK Pilot Study cases

4.6.5 The Interview Schedule

Mindful of the caveats over minimal continental documentary evidence (4.4), the interview had central importance for this research. Its object was threefold. First, to obtain new information. Second, to verify or falsify both information already obtained and that obtained during the course of the interview. Third, by questioning not only this data but also its nuances and contradictions, including what was said and left unsaid, by 'reading' the way interviewees responded and their demeanour, assessing their body language and modes of expression, insights into what happened 'behind the scenes', could progressively be pieced together. Establishing case 'facts' in this way required consistent and ongoing evaluation, both during and after an interview and between interviews.

To this end an Interview Schedule (Appendix 5) was designed to achieve several purposes: as an *aide memoir* and prompt; as a structured guide to gain interviewee confidence quickly and 'press the right buttons' needed to excavate reasons as well as facts; and as a systematic method of cross checking as well as obtaining new data. Its design aimed to cover a variety of possible interview situations, from stone wall 'yes' and 'no' answers, to gushing 'wells of worth' (4.6.6) - and sometimes superficiality. Its use was not as a questionnaire, although it was capable of being such, but as a conversation manager, enabling both direction and control of purposeful discussion.

As in any interview situation interviewees need to feel confident, safe in the knowledge that any personal information which emerges will not harm them. This achieved, the task is to persuade them to

⁹⁹ For security reasons, copies were made of all documents and retained in different locations.

act as *informant observers*, distanced in some way from the processes and thus more comfortable giving information. The techniques of the anthropologist and ethnographer, as well as the sociologist, become relevant¹⁰⁰ To this end, drawing on the Researcher's knowledge and experience, the *Interview Schedule* carried a series of interviewer guidelines, the aim being to provide essential information to the interviewee, tell them what to expect, and secure their full co-operation. Underlined or highlighted text served as a check list for each RA, reminding them what to expect, how to proceed, which (if any) questions to ask, and what to look for.

4.6.6 *The interview process*

The ordering of interviews was important. The first, with the municipal case officer, helped 'fill in the blanks' from the document review and provided additional background. Subsequent ordering varied according to this information, but the object was to move from easiest and most friendly to the most complex and difficult, as determined by the questions which needed answering. Again, these varied from case to case and changed as the series of interviews progressed. In this way case knowledge and confidence was built up, enabling extra depth to be achieved and individual authority to be increased (4.6.10) at each successive interview.

Following the *Interview Schedule*, the approach was first, to "break the ice" with the interviewee. Information was then sought at progressive levels of depth about the interviewee's organisation. Questioning then switched to personal details and views, similarly progressively raising sensitivity, sometimes to visibly uncomfortable levels. It then abruptly moved to case specific questions. These were again posed at increasing levels of depth. Having imparted some degree of quite personal information and then being suddenly released from related discomfort, most respondents started to relax and 'open up' with what might otherwise have been guarded responses. One 'last question' was then asked concerning factor balance between politics, markets and rules. Once more, with pressures off, respondents often settled back, recapped and give a torrent of further and more insightful answers. This stage of the interview was often found to last almost half as long as the rest of the interview.

Besides basic research questions, information obtained from the document review provided initial case specific questions. These were designed to obtain a fuller understanding of each case, to verify provisional views, and to seek out interview opportunities for obtaining the in depth information required. The *Interview Schedule* itself was also designed to this end, with questions selected and arranged to lead respondents into an open, but directed and controlled, conversation. Whilst direct responses to these questions provided low to medium grade data in themselves, their purpose was give RA's authority (4.6.10) and turn interviewees from mere respondents into informants (4.4), making them progressively more ready to accept and co-operate as the interviewer probed for more sensitive details.

¹⁰⁰ see, for example, Keesing (1981), Hammersley (1990), Sayer (1992), Sommer (1980)

4.6.7 *Post interview procedures*

As part of the interview procedure and schedule requirement, once outside the interview, immediate post interview notes were made. These aimed not only to review the truthfulness and validity of the information obtained, but also to consider this in context. Although completely subjective, the purpose was not to establish these attributes as absolutes for the study, but to gain depth for, and improve procedures in, subsequent interviews. This reflection helped interviewers assess what went right or wrong, the value of information obtained, and how better to 'read' interviewees, relate their responses to other data, consider what remained uncertain or unknown, and determine other lines of subsequent interrogation to correct these deficiencies.

Interview summaries were generally written up within 24 hours. As with immediate post interview notes, in addition to recording, assessing and synthesising information, this procedure was designed to reinforce recollections of what was learned, thereby facilitating subsequent preparation and writing up of the Case Summaries. Sometimes this did not take place until several weeks or even months after the document review.

4.6.8 *Recording and Reporting*

Standard 'question shells' (Yin 1989 edn) were used to collect information and pose questions to the Researcher & RA. Covering the organisation of the municipal department responsible for receiving applications and issuing permits, municipal documents search, interviews, immediate post interview notes, interview summary and case summary, these helped identify gaps in information and commenced the process of synthesising up raw data.. As part of procedure, RA's were required to make photo copies of all documents immediately after completion and, for security, to keep these separately. Although, for reasons of confidentiality, all documents were collected in on completion of the case summary, only the Municipal Document Review and Case Summary forms were required to be in English. Other forms were specifically for the RA's assistance and, except for the *Interview Schedule*, all forms posed questions to the RA's (Yin 1989 edn, 76). The *Case Summary* included 'table shells' (Miles and Huberman 1984) for the transfer of data from interviews, aiming for this to be in a standard, cross national comparable, format. Designed to be the first stage in the process of synthesising up the data, it called for RA's, in consultation with the Researcher, to deliver a narrative attempting to integrate the available evidence and to converge upon the facts of the matter or their tentative interpretation. This analytic process was seen as an integral part of the overall analysis, with each RA becoming the respondent responsible for citing the relevant evidence (Yin 1989 edn, 101).

4.6.9 *Ethical Considerations*

The need for this in depth, probing approach raised a further concern. The wish as well as obligation to protect the interests and welfare of both interviewees and interviewers, and to persuade interviewees to become informants, required absolute confidence and confidentiality. With no standard code of

ethics or conduct available, following guidelines published by Social & Community Planning Research and Sommer (1980), summarised in Figure 11, p.81, one was devised (see Appendix 3). All procedures, documentation and records were designed to follow this Code, with anonymity the rule. To permit free sharing of information and discussion within the cross national research team, each RA was required to sign an undertaking (Appendix 4) binding them to observe the code of ethics in respect of all work carried out by them on this project.

| Ethical considerations | |
|------------------------|---|
| • | protect the rights & welfare of respondents. |
| • | avoid hazards for investigators |
| • | adequately inform subjects about risks & benefits involved to themselves, investigators & society |
| • | preserve confidentiality |
| • | conceal identities from public exposure. |
| • | keep identifying information out of published reports. |
| • | discourage research employing doubtful ethical standards. |
| • | encourage openness, honesty and the preservation of good relations with participants. |

Figure 11 Considerations leading to the projects 'Code of Ethics'

4.6.10 Individual authority

The importance attached to RA's acquiring a really thorough understanding of their case project before commencing interviews, cannot be over stressed. In itself this overcame many RA shortcomings, enabling them to demonstrate a good deal of prior knowledge of the subject to interviewees, treat them as informants as well as respondents, and display sensitivity to the fact that views offered by organisational and other role holders might not be coterminous with their private opinions. It thus enabled their discussions to take place on the basis of equality (Hakim 1987, 73-4).

4.6.11 Verification, validation and progress checks

As can be seen, a degree of verification and validation was built into the tools and procedures so far described. Data obtained from one source was verified with another and by counter-questioning¹⁰¹ the same source. In itself this sometimes led to new explanations and information. The validity of new information was assessed not only against the growing case 'picture', but also by testing the positions, beliefs and opinions of interviewees. Again, these occasionally led to new insights as their perspectives were assimilated by individual interviewers.

This process was continued in two further ways; by completing the interview summaries and, where local assistants conduct interviews, through detailed discussions, or 'Progress Checks' between the Researcher and interviewer after each interview. Again both were arranged as question 'shells' to facilitate the process of synthesising up information. As discussed below (4.8.3), with continental interviews taking part in the local language, this was an essential feature of the method. The Progress Check also performed other important functions, per Figure 12, p.82.

¹⁰¹ Cross checking the subjects earlier answers by either using this to pose other questions which might require negating answers, by asking related questions at a different time and in a different context, and by posing or relating other situations which depend on the negation of the former response for their occurrence

After each progressive debriefing, RA's contacted informants, either in person or by telephone, to assess the accuracy of what had been learned. At the same time, questions of clarification or increased depth were raised, sometimes leading to further fruitful expositions.

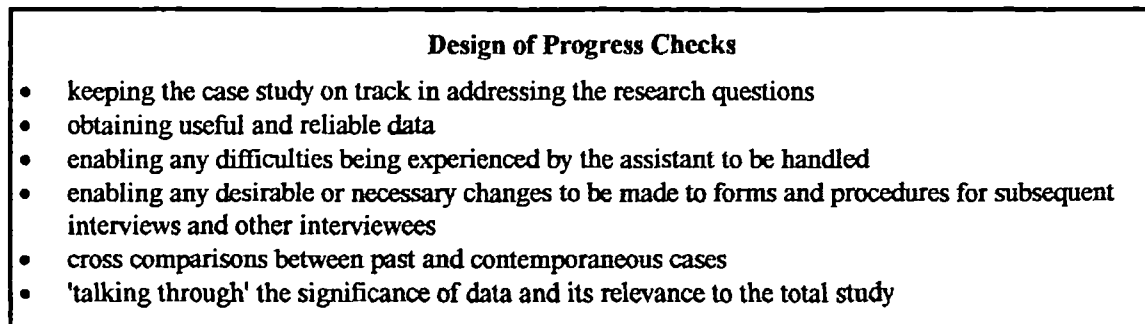


Figure 12 *Design of Progress Checks*

4.6.12 *Continuous Review*

Heeding Yin (1989 edn, 64), on the need for adaptiveness and flexibility in case studies, and again adapting Hickling (1975), a rolling appraisal process was developed. Through critical questioning of what was discovered at each stage 'sub hypotheses' or, more simply, statements that 'from this data it looks as if such and such is happening', were developed. Lines of questioning were then incorporated into subsequent interviews to try and disprove these suppositions. Where these were not disproved they were extracted as provisional findings and used to frame further questions put to additional informants, identified through the case studies, but not the case actors themselves. By this process of new questions and statements it was sought to rebut, to falsify, these suppositions. This opportunity to come back and challenge provisional findings from a different direction also enabled any biases that might have crept in to be highlighted for correction and/or removal. Additionally the process enabled findings to be somewhat refined and the extent of their generalisability tested. In itself it also brought in new information and ideas relevant to the area of study. This process also enhanced RA self confidence and credibility in subsequent, often higher level, interviews.

Although it is tempting to think that perhaps these additional informants could be approached direct, thus leaving out the lower stages of research, this would have been both self defeating and impractical. Each case study provided a window of opportunity to see what had happened with that particular permit decision. It focused attention on aberrations in the system, peculiarities and trends and acted as the point of reference for the process of question and 'sub-hypothesis' building. It is only through this process that it was possible to get underneath the practices and start to refine observations into ideas and ideas into statements which could then be checked out from a different direction.

Building this kind of 'rolling analysis' into the case method facilitated synthesis of all types of data, collected from varied sources, in the subsequent completion of Case Summaries. Again the use of progress discussions and question 'shells' provided the Researcher with an ongoing awareness of any emergent patterns across cases and countries.

4.6.13 *Sharing knowledge*

In addition to pointers which emerged during progress discussions, after submitting their case summary, RA's completed a questionnaire which gave their reactions to the design of the study and method. Where possible, delivery of each RA's individual Case Summary was organised as part of a seminar to that RA's faculty. RA's from other countries were invited to attend as appropriate. A group debriefing session also allowed RA's to share information and experiences. This procedure provided useful feedback against which the focus, design and method were further adapted for continental use, appropriate changes being incorporated into forms and procedures. Thus, greater sharing of knowledge, experience of the wider team and reinforcement of team bonding, were added to the final debriefing objectives of reviewing method, considering implications, testing results against the research proposal and obtaining RA's specific and general views and suggestions. This process was repeated with a final 'Euro-debriefing' enabling all RA's able to attend to meet and exchange information and experiences with other team members (see timetable, Figure 16 p.91).

4.7 *Adapting the case method for continental use*

As indicated (4.6), an important function of the UK pilot studies was to develop, test, and adjust the processes, procedures, and tools for use in mainland Europe.

4.7.1 *Influences on case study focus*

Because the research was primarily concerned with continental systems, and mindful of Healey's counsel (4.3), a detailed analysis of the English data was not conducted on completion of the pilot study. However, it did provide further information for revisiting the hypothesis (4.1), indicating that, if applied to the flexible, performance orientated English system, the hypothesis seemed to hold. Discussed in depth in Chapter 5, *inter-alia*, it showed political and market considerations apparently influencing decision processes, both where permits were granted and refused. It directed main study attention beyond investigating each case *from the inside*, to '*getting inside negotiations*'. Suggesting that changes in the character of land (property) and surrounding circumstances over very long periods of time could force 'rules' to be circumvented, if not first revised, it emphasised the need to identify what gave rise to applications, why a particular type of development might be promoted, how this was controlled, who by, and how access to the process was gained. No less importantly, it confirmed the revised research questions as being the right ones to ask in the main study. However, this deliberate delay did make it much harder to really grasp the focus of the overall study until quite late in the process, perhaps adding to the reasons given for the project time overrun (4.9.4).

4.7.2 *Influences on case study design*

The frameworks developed through the pilot study were now revised and condensed into a series of Research Steps for use by Researcher and RA's. The most important post case and pilot project debriefing observations were used to revise subsequent case and project designs (Figure 13, p.84). In

general Kidder's, (1981) four tests for quality of design seemed satisfied. Subject to items 2&3 being strengthened, the first three were considered present in that :-

1. documentary & interview evidence, collection formats and operational procedures satisfied the need for construct validity (the correct operational measures for the concepts being studied).
2. cross referenced interrogation of evidence, together with verification, follow up and field analysis, satisfied internal validity (the measures to address causal -v- spurious relationships).
3. multiple sources of evidence per case, spread of cases and widespread locations, satisfied external validity, (the domains to which findings could be generalised)

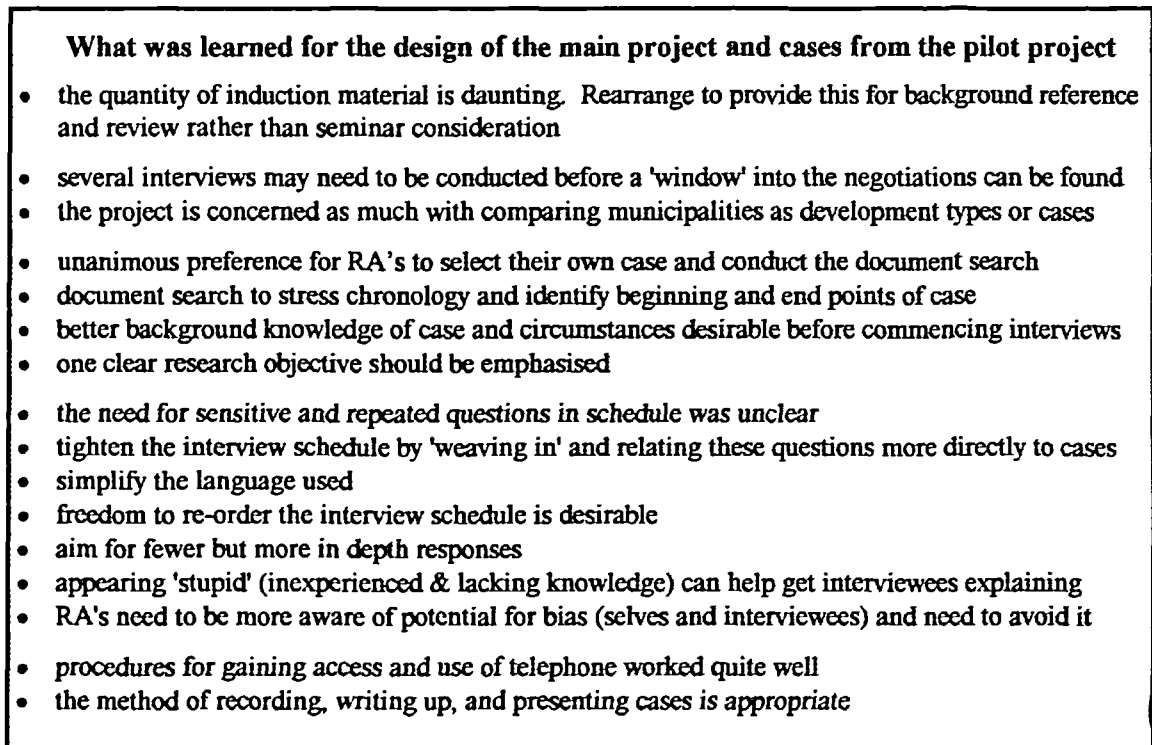


Figure 13 *Revising the case and project designs*

However, given the range of flexibility allowed by the interview schedule, it was felt that the fourth, reliability, (the operational ability of the study to be repeated with the same results) could prove problematic. These observations were addressed by tightening the areas of investigation as indicated above (4.7.1), adjusting report 'shell' formats, and improving training provided for RA's.

From the comparison of continental systems (Ch.3) it was concluded that, despite their differences, these systems would still need to deal with very much the same kind of information as in England. The Document Search and Departmental Profile forms therefore provided bench marks for comparison; even though it had been suggested (4.4) that the same quality of documentation could not be expected in continental countries. Conceived as a series of 'building blocks', the design for the main project could now be completed, as illustrated in Figure 14, p.85.

4.8 The mainland project in practice

With the amount of time each RA could allocate varying with study commitments, job engagements, holidays and the like, it seemed that the number of cases undertaken in any one country would be governed by the joint factors of numbers of RA's available and the time at their disposal. In fact this was

extended in two respects. First, by the Dutch students, supported by their faculty, being so taken with the project that they asked if they could undertake further case studies. Second, by two of their colleagues, again supported by their faculty, asking if they could take advantage of various of the project's features by joining in work which they wished to conduct in the Czech Republic and Hungary, adapting this to fit the project criteria.

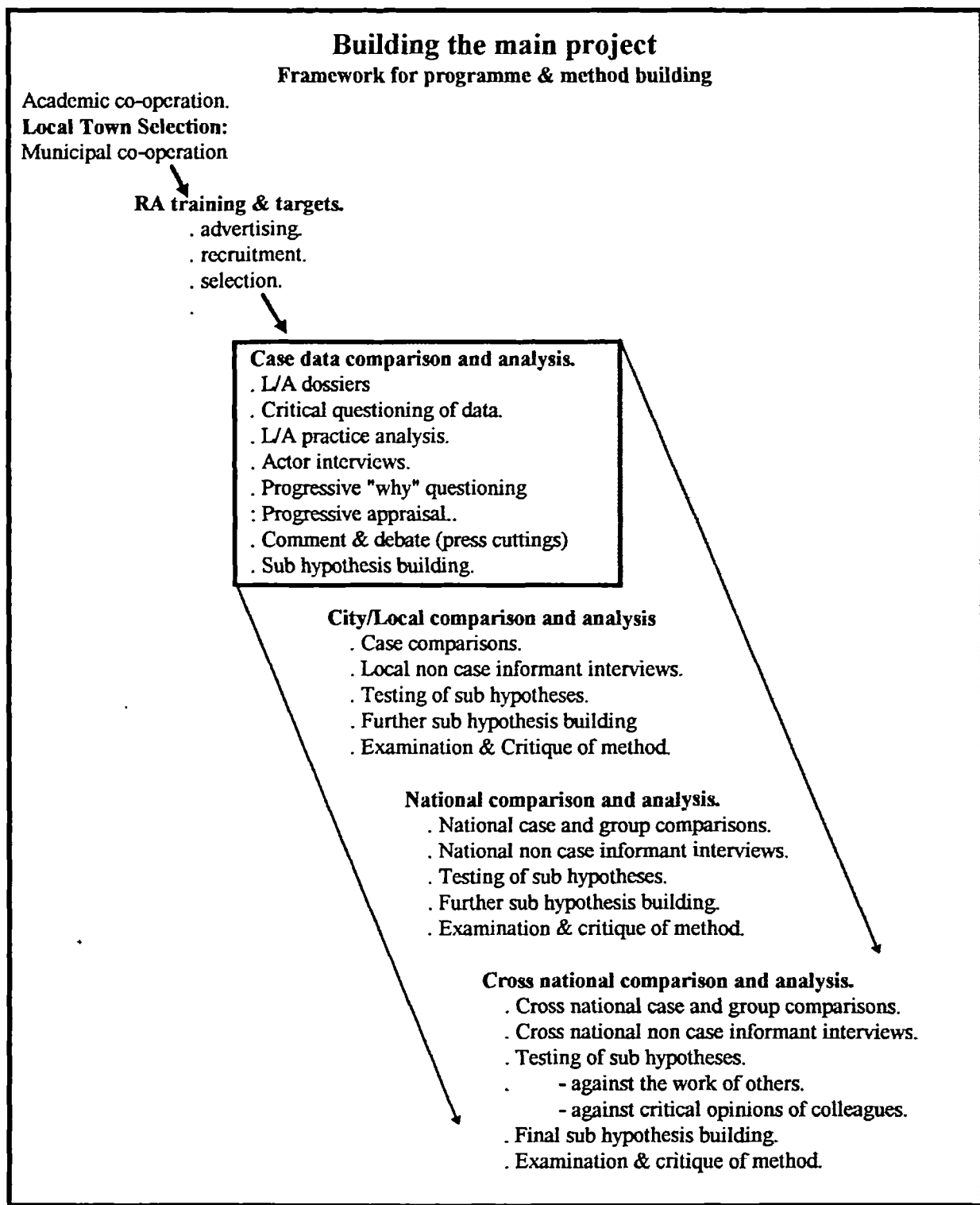


Figure 14 Building the main project

4.8.1 Location and Case selection

By virtue of either the location of collaborating universities, RA's home towns or, as for Central

Europe, their personal interests, case towns were self selecting. Subject to the constraints of available information, bureaucratic co-operation and the specified threshold criteria (4.6.3), cases were selected by individual RA's. Further information and details of these are given in the relevant chapter (6-10).

4.8.2 Preparation and training

After recruitment, agreeing terms of engagement (which included RA's giving the ethical undertaking, Appendix 4), and taking initial tests to assess interview skills, RA's were given appropriate induction and interview training. The pilot study had enabled two additional and important training tools to be developed. These were designed to help raise the interest, awareness and confidence of continental RA's; both in the ability of the method to produce good results and in their own abilities to replicate the method efficiently and possibly even more effectively. The first of these was an actual, detailed case study taken from the pilot study. Presented to each RA in a ring binder, it was used for case method training. Providing an in-depth example of real pilot study information, it raised expectations of what could be achieved through the research (Frank 1970) and demonstrated the use of 'shells' for organising raw data, writing up descriptive summaries and field analysis.

Second was a video. Made with the co-operation of RA's who worked on the pilot project, staff and post graduate colleagues from Newcastle University, a series of situational 'clips' illustrated different problems encountered, and techniques used, in interviewing. Drawing out points for discussion, it demonstrated that people of similar age and experience could successfully conduct such interviews and evidenced background and back-up support from Newcastle for the Researcher. It proved most useful and welcome to all mainland RA's.

With training (and skill acquisition) seen as a continuing process (Marks 1970, 7) and with time and RA's other interest constraints severely limiting the amount of information they could absorb in the induction sessions (4.7.2), equal if not greater emphasis was given to 'on the job' development. By working with them, collectively and individually, during the Document Search stage of their field work, the Researcher was able to enhance individual levels of awareness, interest, personal relevance, reflectivity and investigation, before they commenced interviewing. By accompanying them to initial - and often many other - interviews, debriefing and discussing these with them, further guidance and personal development was made available on a one to one basis when and where needed.

4.8.3 Flexibility and opportunity

The importance of the project remaining flexible and responsive to changing circumstances, requires emphasis. The original design provided for this but perhaps did not recognise it sufficiently. In practice this meant not only remaining alert, open and able to grasp other opportunities presenting themselves throughout the course of the research, but also adopting a somewhat fluid methodology, able to evolve in line with changing perceptions as data emerged, e.g. challenging findings from a different direction.

Adapting Yin's (1989 edn, 62) counsel, this presented two further opportunities for the project. Since time commitments would not permit the principal Researcher personally to supervise the Czech and Hungarian studies directly, it offered the chance to test the effectiveness of the method and of the training at one remove. Also, after full induction and preparation had been delivered, these 'seconded' RA's joined one of the initial Dutch RA's to select cases and extract documentary information for further studies in the Netherlands. Substituting for personal supervision by the Researcher, with the help of the original Dutch RA's, they were given extra guidance during the document review stage. Further data collection tasks, like the collection of contextual and municipal data, otherwise carried out by the principal Researcher, were also added. They then faxed copies of their review forms to the principal Researcher which, via fax and 'phone, enabled the team links to be re-established, notions and questions challenged, and so forth, in the same manner as if this had been done face to face. However, to maintain the close team work method of directing the research and its related bonding, arrangements were made for the principal Researcher to visit them and their own local assistants, who were recruited as described above.

4.8.4 Access to Data

After establishing training and project frameworks with the RA's in each location, the Researcher's main task was to gain access to the municipal records at the point where applications were delivered. Officer assistance at this point was then enlisted to obtain a range of cases meeting the threshold criteria, from which, after joint review, local RA's made their own selection. This had the benefits of minimising principal Researcher bias, allowing RA's to inject their own interests and assume responsibility for their selection (4.4.3).

4.8.5 Intensified Documentary Review

With the exception of Hungary, Czech Republic and two of the French cases, research then proceeded with the RA's reading the file and extracting information as appropriate while the principal Researcher entered this on the document search form. This was a major change, encouraged by the pilot study, from which several benefits flowed. First, as noted, the RA's 'owned' their case. At the same time the principal Researcher gained the same familiarity with it. Discussion over the points emerging increased team bonding and facilitated in depth thought about the practices and processes present and the general conduct of the planning or building authority. Simultaneously induction and personal development were continued and extended, as was the acquisition of background research material by the principal Researcher. RA's increased their knowledge and understanding of the project and disclosed more of their own. Heading Reason's (1981) advice that "*High quality awareness can only be maintained if co-researchers engage in some systematic method of personal and interpersonal development*", the Researcher's team leader role (4.5.4) of observing, challenging and encouraging the RA's thinking became a two way process, with them challenging the Researcher's approach and correcting his theoretical, practical cultural and local conceptions where appropriate. Throughout the

process, the consideration and development of case specific questions were encouraged. This enabled deep insight and understanding of each case to be drawn out, even where the actual information contained by the files was sparse.

4.8.6 Reception

In practice the project was extremely well received by collaborating planning schools, students and most municipalities and politicians. Private sector professional and corporate actors gave it a mixed reception. In the same order, the varied degree of co-operation extended appeared to stem from a mixed level of interest, availability of time, and greater or lesser desire to protect privacy.

4.8.7 Welfare

The Code of Ethics adopted for the project addressed the welfare needs of RA's as well as respondents. In the main, where RA's were already located in or had long standing relationships with a town, their housing, social and other welfare needs were already taken care of. However, where this was not the case these issues had a marked impact on ability to begin research efficiently. This applied equally to the principal Researcher and RA's. On relocating anywhere the first priority became to address these requirements, establish appropriate facilities, including 'fax and 'phone and, 'set up home' as quickly as possible. Apart from the more obvious factors, this meant feeling "comfortable" and 'safe' in the new environment. The need to gain rapid familiarity with surroundings, micro locations, local culture and mores and to have access to personal equipment and other possessions was found to be a key factor in reducing stress and enabling productive research to progress with least delay. Although contacts with collaborators helped considerably in many respects, they never were able to satisfy this 'comfort' need. In fact it was necessary to expend considerable time and effort during the first few days in any new location, to achieve this. A further welfare consideration, addressed in part by the teamwork and communications aspects of the design, was to minimise, if not eliminate, the feeling of 'being alone'. However, the danger of the principal Researcher 'going native' (McNeil 1991, 82), considerably reduced by the relatively short amount of time spent in a country at any one time, was replaced by the need quickly to gain sufficient local language to 'get by' and then attempt to absorb, if not actually integrate rapidly with, local customs and cultures.

4.9 Appraisal of project design & method

Cross-national research often seems to be joint ventured or sub-contracted¹⁰². In this way, and working to a common research framework, independent national researchers handle the work in their own country. Although this was not an option here, such methods present their own difficulties. For example, they do not provide the direct access believed necessary for the principal Researcher to appreciate practices and get beneath surface superficialities. This may lead to obfuscation or loss of information. Local expectations, assumptions and practices may be so commonly accepted by the local researcher that they go unnoticed. Individual biases may emphasise different aspects of enquiry,

making full comparison difficult. Mis-translation may lead to wrong data interpretation or even to studies being conducted with differing objectives and standards.

In contrast, this project was conducted by a single English researcher working directly in each of the subject countries. Consequently, differences between systems, local procedures and practices were more noticeable, interpretation of meaning and RA/Researcher biases more readily addressed, research purpose and substance continuously monitored, and a single focus assured throughout, satisfying the need for local inputs without sub-contracting (4.6.1). RA's provided the Researcher's eyes, ears and tongue and, via ongoing progress discussions, served as filters and sounding boards for the development of sub hypotheses and the refining of ideas in the local context. Consequently the method gave not only tight control over direction, progress and content of the research; it also enhanced quality.

4.9.1 *Research Assistants*

But all was not as satisfactory as it could have been. The self-selecting advertisements worked reasonably well for recruitment, but lack of distribution channels limited choice of RA's and hence attitudes toward induction and training. In this respect the first hurdle, even in the UK, was to convey the concepts embodied in the research hypothesis to students immersed in theories which supported their own country's systems. The second was to overcome RA's scepticism as to whether there was anything to investigate, or as to whether they could ever gain appropriate access to discover anything. *Here the training video and sample case achieved their dual purposes. But, with insufficient time the main culprit, neither did so to the best possible extent.* 'On the job' training served partially to overcome this. With the Researcher working alongside each RA to examine documents, conduct interviews and interpret information - all in each RA's own language - they soon improved their understanding, interest, capabilities and - perhaps most important - confidence. Noticeably, performance and results were least good where the Researcher's presence was restricted. This 'team leader' approach also secured excellent personal relationships between Researcher, RA's and many informants. These proved invaluable both to the conduct of the project and in subsequent verifications..

4.9.2 *Phased research*

To minimise time limitations the research was conducted in contemporaneous stages. After training RA's and getting work underway in one country, *this was repeated in the next, so that some country projects ran in parallel.* Using 'phone and fax, each RA was supervised directly, the Researcher moving between them as necessary. This worked well, but the difficulties of trying to conduct such research with part-time assistants whose prime commitments were elsewhere, emphasised the shortcomings outlined above. Nevertheless, thus guided, RA's were able to grasp the relevance and importance of the work in their own time, improve their awareness of their own country's systems, develop the knowledge and confidence needed to conduct top level unstructured interviews, see behind

¹⁰² see, for example, Thomas (1983a), Williams (1984), Dieterich (1993/4)

false answers, pursue promising lines of enquiry, refer back for clarification and validation, and secure in-depth information.

4.9.3 *RA Benefits*

Testimonials from RA's and their professors (who were not involved) to some degree¹⁰³ validate the efficacy of the way the research concept, tools and skills developed for transfer to RA's, worked..

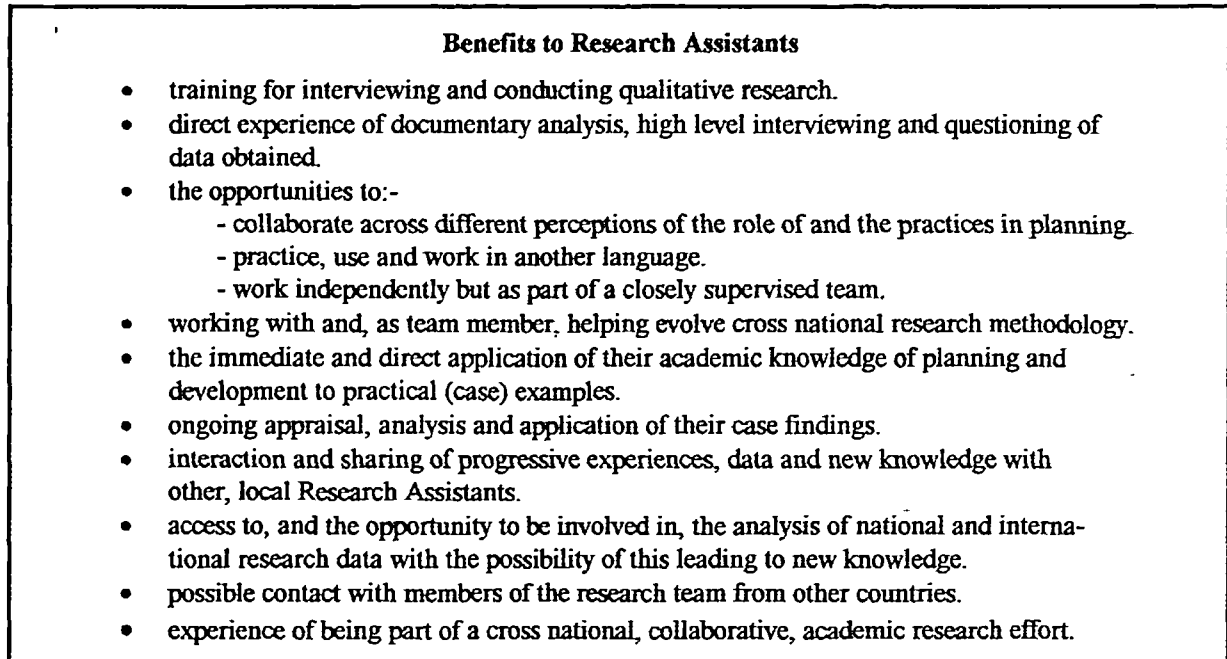


Figure 15 *Benefits flowing to Research Assistants from collaborative cross country research*

4.9.4 *Chronology*

The original intention was for the total project to take just over three years from literature review, through method selection and project design, to case research, analysis, reporting and writing up. In the event, as indicated by Figure 16, p.91, it has taken considerably longer. The initial stages, including the pilot project, went reasonably to plan, as did recruiting and inducting RA's and selecting cases. Some were even advanced, with the unplanned extension of the project to Central Europe commencing approximately on schedule. What could not be accounted for were the delays in obtaining many private sector interviews, securing reports from RA's whose other pursuits were more demanding, especially in Central Europe, and extended communication delays in checking reports once the Researcher had 'left the field'. Their combined effect was effectively to double the time allowed for mainland field research. Additionally, reviews of the hypothesis, sub-hypotheses, local literature and project design to improve data quality and methodology, became an ongoing process (fine dotted lines on Figure 16). This produced a much greater volume of rich, in-depth material than had been anticipated, causing categorisation, analysis and cross-country comparison of data to be much more difficult and time consuming, than envisaged. The 'knock-on' effects meant that other demands on the Researcher's time also delayed completion.

¹⁰³ e.g. J. Tucny, Amsterdam de-briefing.

However, while, for almost everyone, time became the enemy, the method came to its own rescue. It enabled time over-runs (often inevitable in securing top level interviews) to be accommodated and financial budgets respected. But resolving the difficulties in this way delayed and distracted analysis. As Healey (1991c, 457) explains, this type of planning practice research was found to be “... *a much messier business than, for example, quantitative studies of market behaviour for a property company, or independent social scientific inquiries into aspects of planning. The researcher and the researched are involved in more complex political, institutional and professional relationships, which is why ethical issues are so important. Research activity thus tends to have a collaborative quality.*”

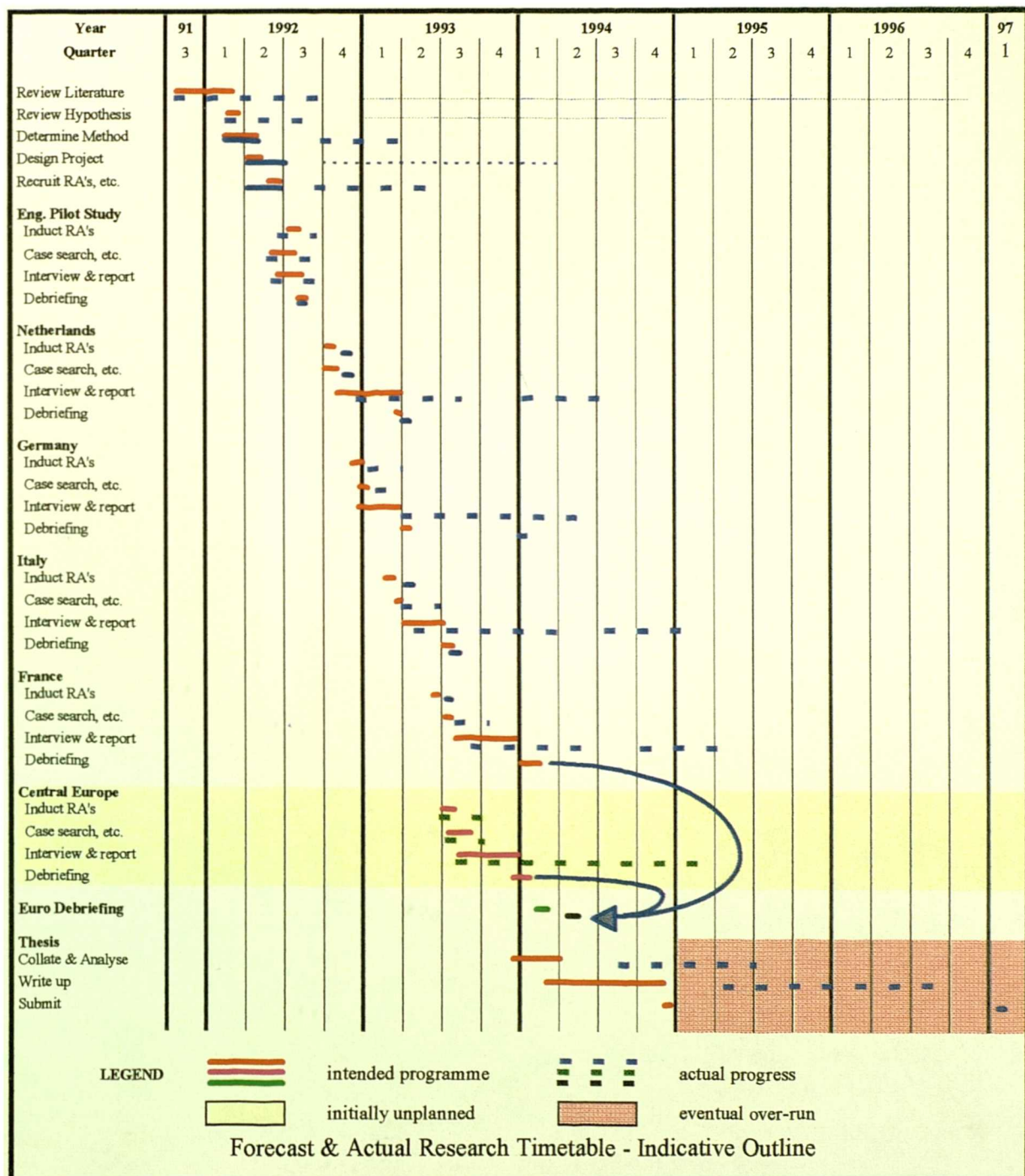


Figure 16 Indicative Outline of Forecast & Actual Research Timetable

Efficiency came in two parts. On the one hand the in-built flexibility allowed almost limitless adaptation to circumstance. On the other, recurring delays postponed collation, frustrated analysis, and put back targets. Field work scheduled for 1 year spread to 20 months and procedures for assimilating material were relaxed.

4.9.5 *Efficacy & Resources*

Nevertheless, the method was effective. Ordering interviews (4.6.6) achieved access to elite groups. Building knowledge of practice and individual cases uncovered sub-surface facts. Ongoing first analysis and inter RA feedback aided in-depth penetration. Its success was almost too great. The bounty and richness of its results (4.4.1) created the next hurdle - analysis. Although frameworks for assembling and collating information were built-in, apart from the heuristic models and matrix (4.3), to minimise pre-judgement and bias those for detailed analysis had been deliberately avoided. With vast amounts of material obtained, 'letting the data speak for itself' became rather like listening to Babel! Resolving this also ate into time targets and the three years set for the whole project stretched to more than four.

Even though the resources available may have been rather more extensive than might normally be available for PhD research, these were still considerably limited. As noted, in part this restriction helps account for the programmed time overrun. Nevertheless, the results presented here (Ch. 5-10) are considered to more than justify their various costs.

4.9.6 *Lessons for the future*

Many of the methodological areas which require attention for similar future projects have been highlighted above. Most could be improved. First by restricting the UK (or native language) pilot project to one case and subjecting this to careful, initial analysis, both of content and the key probes likely to elicit improved and more speedy responses. Second by effectively repeating this in the initial foreign country. In the Geddesian sense one might say '*survey before plan*' i.e. look over and 'sense' the territory in advance¹⁰⁴. The inherent danger of pre-judgement and bias in this could be addressed if more than one researcher were to analyse independently the same or similar pilot material. However, this would require them to be equally well versed in the same method. Placing the emphasis back on training, this also creates a need for careful monitoring and comparison of these early stages to ensure equivalence. Third, would be to improve control over the time allowed for completion of interviews

¹⁰⁴ As Ferraro (1995, 1) reminds, Geddes 'preliminary survey' ('survey before plan') is often misunderstood as measuring and plotting, but Geddes never did do this. In fact no Geddes' plan has any preliminary survey. Rather it is an over-view upon which to base a creative interpretation of the cultural "heritage" of the city.

and reporting. Subject to resource availability, this could possibly be done by requiring RA's to concentrate full time on the interview and reporting stages and setting cut off dates for these. But further consideration of how to gain faster access to private sector actors, is required.

English planning permissions

- 6 pilot project cases -

English planning permission results from a discretionary, judgemental process which, the literature suggests, should be just, fair and 'equitable'. As Chapter 4 explains, the need to conduct an extensive pilot project in England gave opportunity to assess if this held true in practice. In total, eleven major private developments (4.1) were investigated in two similar cities, 'Weston' and 'Eastville'¹⁰⁵. Used to bench mark continental cases, all form part of the overall study. However, for reasons of space¹⁰⁶, only six are summarised here, selected to give the best mix of case and site types for comparison.

To obtain the eleven cases, a mix of the largest approved and refused applications available were selected from computer lists of several hundred cases provided by each municipality in accordance with the selection criteria (4.6.3). If a particular file was in use the next was chosen. In the event, although several refused cases were chosen, most of these were eventually granted permission on appeal. In only one case was the appeal dismissed and the refusal upheld. After presenting background information on Weston and Eastville, basic details, a time diagram of events and a synopsis of the case history, are inset for the readers convenience (1.7). This information is then discussed for each case according to the key headings identified in the previous chapters, before considering which of the heuristic application (4.3.1) and decision processes (4.3.2) were followed, locating the case decision on the decision matrix (p.112), considering the importance of the factors involved in each decision (p.112) and tabulating (p.115) & charting (p.115) the transparency and equity of practices (4.3.4). Schedules of interviewees /informants by country and case and by agency and actor, itemising their views, are provided at Appendixes 7 & 8. Assuming readers to be familiar with England, no country context is provided as it is for mainland countries. Appendix 6 provides a list relating RA's to cases.

5.1 Weston

Weston is a regional centre with a heritage of heavy manufacturing and related progressive industrial decline. With few gaps in continuity it has been governed by the Labour party since the 1940's and,

¹⁰⁵ Good precedents for these pseudonyms exist, for example the Lynd's (1929) classic study of small-town America *Middletown* and Whyte's (1943) *Cornerville*.

¹⁰⁶ While readers are likely to be familiar with the English situation, this number allows comparison between the two cities and provides a reasonable basis for comparing the mainland.

until its abolition in the mid 1980's, was part of a metropolitan county. Since then several areas of policy conflict have become apparent between Weston and its neighbours, particularly over retailing. Selected for an Urban Development Corporation (UDC), significant parts of its land holdings have been forcibly divested to the UDC, setting up major tensions between the bodies. Although the UDC is its own planning authority and, on establishment, engaged private consultants to advise on the potential for its lands, much of the development control (planning application) work has been sub-contracted to the municipality, but with the UDC retaining final powers of decision. During the research period some 12% of population of around 300,000 were unemployed. The Weston cases illustrated here are:-

| Case | Dev. Type | Description | Site Type | Decision |
|------|---------------------------|---------------------------------|------------|--------------|
| E-01 | Commercial & Leisure | New Offices & Hotel | Brownfield | Part change |
| E-02 | Commercial & Residential | New Showroom, Offices, Houses | Greenfield | Enforce use |
| E-03 | Residential | New 'executive' housing | Greenfield | Total change |
| E-04 | Commercial, Shops, Resid. | Conversion Office, Shops, Flats | Redevelop | Part change |
| E-05 | Shopping | Superstore | Urban | Total change |
| E-06 | Leisure | Cinema, Restaurant, Fast food | Brownfield | Total change |

5.1.1 The Hostage Hotel & Office Complex (Case E-01)

Illustrating how easily national and local politics and policies can conflict, here private enterprise, bureaucratic demands, and the interpretation of regulations become the bargaining counters of a larger power game.

| <i>DETAILS¹⁰⁷ Case E-01</i> | | | |
|--|--|-----------------------|---|
| Site area: | <i>1.27 Ha. hotel, 1.4 Ha. offices</i> | Site Type: | <i>Brownfield</i> |
| Dev. Type: | <i>Leisure (Hotel) + Commercial</i> | Location: | <i>0.8 Km centre, in conservation area</i> |
| Plan allocation: | <i>Light Industry</i> | Policy use: | <i>Improve area, include tourism</i> |
| Actual use: | <i>Car sales, repairs, parking</i> | Outcome: | <i>Plan breach, policy part breached</i> |
| Project idea: | <i>1987</i> | Application: | <i>06/12/88</i> |
| Decision/s: | <i>22/02/89</i> | Decision type: | <i>Imposed with negotiation of detail</i> |
| Actors: | <i>Owners, Officers, Architect, Principle PO, MD of UDC, LA Engineer, Hoteliers, Contractors</i> | Agencies: | <i>UDC, LPA, English Heritage, Fine Arts Commission National Parliament</i> |

| <i>Time diagram¹⁰⁸ - Case E-01</i> | | | | | | |
|--|---|--|---|--|------------------------|----|
| 1986 | 87 | 88 | 89 | 90 | 91 | 92 |
| / / | / / | / / | / / | / / | / / | / |
| Comprehensive development area + UDC announced | owners research project idea + approach UDC | negotiate with LA UDC, Architects contractors, operators | negotiation of details, Fine Arts outline permit Heritage listing | building starts contractors fail financially | Hotel complete & opens | |

¹⁰⁷ Although several of the headings under Case Details are self evident, the following explanations are offered for clarification: 'site type' and 'development type' are the Researcher's classification of these, 'planned use' and 'policy use' state what the land was planned or intended for immediately before the 'project idea' was mooted. The 'outcome' describes what the result of the 'idea' and 'application' were and 'decision type' denotes the Researcher's classification according to the heuristic models (Chapter 4).

¹⁰⁸ The Time Diagram approximates the period over which site use has changed, attributing various events considered important for this case and related decisions and processes, to certain periods over this time span.

Synopsis¹⁰⁹ - Case E-01

In common with much of the area, the site had a history of mixed industrial use and progressive decline, and was eventually included in a comprehensive development area. With the announcement that a UDC was to be established to take over and develop the area the owners became concerned for their property, researched alternative uses and, before the UDC was established, proposed a hotel to the Chief Executive elect. Encouraged by his support they discussed the idea with Weston who, although the site was designated for light industry, did not oppose the idea and sold a larger area of adjacent land needed for the scheme to a new company, Newco, specially formed to carry out the project by the owners. Linked to a buy back agreement, the total site was then sold to the UDC for them to carry out infrastructure and other improvement works, this being their role, to secure redevelopment and regeneration of an area. Here this involved a special act of Parliament to widen the site over common property.

Although the UDC did not act as property developers, they viewed this project as of prime 'flagship' importance. Since neither Newco nor its owners had experience of development of this type or scale, to secure this the UDC effectively used Newco to front the project for them. Seeking prestige names they rejected the design of Newco's local architect and pointed Newco to suitable national and internationally known firms. However, although the firm selected had a reputation for working on sensitive sites, they had never before designed a hotel.

The municipality as agents for the UDC, which was its own planning authority, thought the scheme an over development. But the UDC were now effectively negotiating with themselves via Newco and their new architects. Principles of design were agreed but not the details. These involved materials (natural -v- reconstructed stone or brick), height (adverse impact on listed building opposite), and number of parking spaces (inadequate to re-place those being lost). The Fine Arts Commission were brought in to advise on design. Before work could begin English Heritage scheduled part of the underground area (Roman Wall foundations) as ancient monument, requiring additional permissions. All of this delayed the project for over a year and added considerably to the costs. Such environmental pollution as affected the site was effectively ignored.

From the outset the project had depended on subsidy from the UDC, but this did not increase to defray these increases. Final costs were double those budgeted. Consequently, despite high occupancy, the hotel could not service its debt. During construction the contractors, who had secured the project against an agreement to contribute 25% of costs (via shares), failed financially. The hotel operators, who had also agreed to contribute 25%, took over their shares. When Newco, who originally had 50%, reached their credit limits the operators also had to contribute additional funding to complete the project. They sued the architects for failing to control costs. The office development was deferred to await improvements in the economy and has now been built.

Figure 17 *Synopsis of case E-01 - 'The Hostage Hotel and Office Complex'*

5.1.2 Issues and processes

This is a case where the project became a political football. The loss of property and authority to the UDC was undoubtedly a severe annoyance to Weston. Since the UDC had to establish a planning competency from scratch, it is possible that Weston used their superior knowledge of local conditions and agency position to hinder UDC efforts, even though the project was to their liking. Coupled with their 'flagship' objectives, the dual planning and subsidy funding roles of the UDC helped confuse their purpose of making development simpler. Likewise by acting as *de facto* developers they undermined the authority of Newco who, out of their depth with the type and scale of the project, effectively lost control to the architects, politicians and others.

The case illustrates how a recalcitrant local authority and the demands of other, statutory consultant, authorities, who may have been encouraged by Weston, can thwart the enabling role of a UDC. In doing so it highlights the political nature of planning and property development and the way in which one set of rules may be used to over-ride others. Implicitly active behind the scenes, the apparent absence of leading politicians and senior officers accentuates the way in which Newco, their architects, case officers, English Heritage, the Fine Arts Commission and even the National Parliament became

pawns in a larger game.

5.1.3 Practices - locating the decision and process

In this case the predominant UDC rules reflect central government policy. Weston countered these with its subordinated 'rules', even though the two organisations were not in basic disagreement over either the project or the land use. But in terms of land allocation the UDC made its own rules. Private commercial interests gave birth to the development proposal which was fostered by the UDC's ability to provide subsidy funding, enabling further funding to be attracted from Newco's backers, contractors and operators. To this extent the applicant addressed markets. The UDC's need to secure such interest in order to achieve its imperatives provides an unusual mix of private and, arguably, public interest (assuming this to be central government's objective in establishing the UDC). Also, unusually, the 'rules' which are of interest here were over-ridden by the alternative, UDC, set of rules. The UDC was politically interested in establishing its image, rather than the property market *per se*, although, for its image goal to be achieved, the project needed to be a commercial, market success. To this extent the UDC may be seen as an individual, private sector actor, pursuing private interests, albeit that these might be argued to be in central government's greater public interest goals. For these reasons the decision is considered to fall just inside quadrant 'C' on the decision matrix (p.112).

No evidence was obtained to suggest that the UDC had a particular land allocation policy for the site other than to exploit its prominence and commercial attractions, as recommended by their consultants. In this case they appeared to pursue a policy of politico-commercial pragmatism, addressing financial, image and promotional interests in order to secure any substantial redevelopment of the site. Coincidentally this concurred with one, but not all, of the local authority's policy options, although the development plan was not observed. Thus the application and planning decision process can be said to have followed a mix of policy and negotiation models, with the negotiation processes themselves being a mixture of transparency, i.e. where technical issues were concerned, and covertness, where politics intervened to lead the process and secure the required decision. These considerations give transparency 4 and equity a mid ranking score of 5 on their respective scales (see Chart 1, p.115).

5.1.4 Weston's 'Redundant' Green Belt (Case E-02)

| DETAILS - Case E-02 | | | |
|-------------------------|---|-----------------------|----------------------------------|
| Site area: | 4.4 Ha. | Site type: | Greenfield |
| Dev. Type: | Mixed: Comm'l & Resid'l | Location: | Urban periphery, outside by-pass |
| Plan allocation: | Recreation / Park / Green Belt | Policy use: | Per plan allocation |
| Actual use: | Vacant - disused agriculture | Outcome: | Plan upheld after appeal |
| Project idea: | 1987/8 - not site specific | Application: | 12/07/90 |
| Decision/s: | Sec. State after Appeal 5/9/91 | Decision type: | Political use of regulations |
| Actors: | Owners, Applicants, Professionals | Agencies: | Ministry, DoT, CPRE, |
| | Chief planner, Officer, Engineers, Cttee chair, Councillor, MP. | | |

¹⁰⁹ The case synopsis provides a condensed history of the conditions, events and circumstances leading to and surrounding the development application, permit decision and outcomes.

Here, private business, city image, environment, and local community concerns are once again shown to be the pawns in a higher power game.

| Time diagram - Case E-02 | | | | | | | | | | | | |
|---|------------------|------------------------------------|--|---------------------------------------|----------------------------|--|--|---------------------------------|--|----------------------------|---------------------------------------|----|
| 1970's | 1976 | 1981 | 85 | 87 | 88 | 89 | 90 | | | 91 | | 92 |
| / | / | / | / | / | / | / | / | / | / | / | / | / |
| Land from housing devs. kept for 'hope' | Local plan brief | Public consult'n on LP for 1981-91 | Green Belt local plan permits suitable develop't UDC announced | Local plan adopted after pub. enquiry | Applicants search for site | Applicants take option on this site Informally discuss | Agents write to Leader to 'prepare ground' Pre-lets arranged | Twin appl'ns made Bypass opened | Amend Public meeting PG offer Refusals | Appeals Draft UDP accepted | Inspector gives approval SoSE refuses | |

Synopsis - Case E-02

Retained by the owners from their 1970's residential development for future 'hope' value, this land formed part of a Green Belt wedge. The local plan's brief, prepared in 1976, took eleven years to be adopted in 1987, after a public enquiry. It was not put out for public consultation until 1981. The Green Belt, confirmed in 1985 after a separate public enquiry, envisaged the inclusion within it of suitable development, including commercial and industrial projects. In late 1990, completion of a Bypass cut the site off from the rest off the Green Belt. Weston acknowledged the need to re-allocate this, citing the likelihood of trespass, fly tipping, vandalism, and difficulties of farming on the urban fringe, as good reasons for doing so.

Faced with a major Enterprise Zone development in the adjacent borough and the imposition of the Urban Development Corporation, in whom important city lands had been vested, by 1989 Weston recognised that a serious shortage of high quality development sites continued to hinder efforts to attract new investment. Land following the line of the new Bypass was targeted to correct this.

In 1988 MerBen, the area concessionaires for a prestige motor car, had their efforts to gain permission for a new car showroom on a site owned by Weston, foiled by a listed wall. They began seeking an alternative site. After "Someone suggested ..." this location, their MD secured an option on the whole site, informally approached the council leaders, and obtained positive indications that a permit might be given. Since, at 4.4 Ha. the site was far larger than needed, via their agents they secured a pre-let for a major office complex and, encouraged by the owners and after their agents had 'prepared the ground', in 1990 they made application for a mixed housing, office and motor showroom development. This they 'twin tracked' with an application for the showrooms only.

None of the statutory consultees was against either proposal but, in the face of a wave of objections from local residents, councillors and an MP (for whom elections were looming), internal departments began to find reasons why it was unacceptable. Negotiations sought ways of satisfying these, the proposals were amended, and the housing replaced by a nature zone - a considerable planning gain. However, a major consideration became the prejudicing of the Uniform Development Plan (UDP), which was in preparation.

Complaints were made against Local Authority practice for the timing of announcements to coincide with holiday periods, of 'squalid manoeuvres' to erode the plan, maladministration was alleged to the Ombudsman, and public opinion was fanned by the media. Rebutting calls for a public enquiry, Weston affirmed that the 'rules' were being followed and that no decision had been taken. Nevertheless, to correct misimpressions, MerBen, their prospective tenants, and agents invited over 500 residents to a public meeting. 20 turned up, saw the benefits and, according to MerBen, were satisfied.

Still in an apparent atmosphere of cordiality, Weston refused both applications and MerBen appealed, using written submissions. Weston conceded that the inclusion of this site in the Green Belt was no longer appropriate and would probably be given 'opportunity' status in the new UDP. But, they argued weakly, early permission could prejudice this. The inspector dismissed the 1st. application but upheld the 2nd., granting permission for the showrooms. However, using his call in powers, the Secretary of State for the Environment (SoSE) had already advised that he would make the final decision. This he now did, dismissing both appeals, not for reasons related to the UDP, but on the grounds that the Green Belt still served a purpose.

Figure 18 Synopsis of case E-02 - 'Weston's Redundant Greenbelt'

5.1.5 Issues and pressures

Weston's 'Redundant' Greenbelt is the only case considered where a refusal is involved. It again dis-

plays all the hallmarks of a political football. Here a right wing central government, is determined that its Enterprise Zone (EZ) and UDC solutions to the needs of regeneration, should succeed. Confronted by such challenges and forcibly divested of key properties, the marginally left wing municipality, who may have been tardy in earlier actions, seek ways to recover the initiative. Needing a 'flagship' of their own, prestige development of this site could provide this. It is not hard to imagine an EZ and UDC desire to discourage such moves and to attract them for themselves. With a 1989 application for a certificate of appropriate alternative development, approaches in 1990 from the owner's agents suggesting a green wedge business park, and an independent enquiry for a petrol filling station, offices and fast food project, Weston was conditioned to the site's commercial importance. 'Between the lines' one can recognise tacit agreement to grant permission on acceptable terms. Weston's officers actually suggested the expediency of 'twin tracking' the applications and reported to the committee in terms that would allow them to overturn both plan and green belt policy.

But something went wrong in the management of the 'deal'. An over ambitious proposal created massive public disquiet which, with many local residents believing the council to be behind the application and complaints to the Ombudsman, forced political recalculation. With the applicant willing to use 'bribes' if necessary and the chair of the planning committee wanting equipment for a school, one *planning gain* solution, intimated by a senior officer to MerBen's agent, was for the applicants to fund a nearby children's nursery. Such prizes might have offset the political disadvantages of granting permission. But the agent reacted adversely. Adopting 'cloth ears', he focused on economic development issues and job provision, overlooking the fact, recognised by Weston's officers, that the majority of these would only be re-location within the city. Likewise with the land owners, they ignored Weston's repeated attempts to make clear that residential development was a 'no-no'. Furthermore, little if any attempt seems to have been made by either side to manage the media who, consequently, fanned the flames of discontent.

5.1.6 Practices - locating the decision and process

This is a case where the rules were doubly manipulated. Although enforced, this occurred as an accident of political infighting between central and local government and is in political rather than private or public interests. Outdated plans and policies were clearly a hindrance to the municipality. Since they were to be changed in any case, neither local political leaders nor senior officers saw much objection to arranging this sooner rather than later, particularly as this suited their political manoeuvrings in relation to central government policy. But, lacking major tangible, additional benefits, it became politically unwise to breach them overtly. Instead the rules relating to appeals were harnessed. By presenting the case in the right way, Weston initially used the central government's inspector to both breach the greenbelt and, potentially, secure political mileage by focusing blame on central rather than local government. However, awake to such possibility, the Secretary of State used higher rules to intervene, overturned his own inspector's decision, reclaimed the high ground for the

government, and protected the interests of its policy. In so far as it was the intention of Weston and the inspector to over-ride the rules, which would have been in a mixture of political and private interests, the decision falls in quadrant 'C' of the decision matrix (p.112). But the SoSE's intervention, expressed as being for the Green Belt, i.e. public, even if actually for political, reasons, places it just inside quadrant 'A'. This dual positioning is shown on the diagram as an ellipse spanning the two quadrants. In this case the application and planning decision process followed all three heuristic models. The objective was a negotiated outcome, but this was subjected to policy constraints with, ultimately, a plan and policy based decision being imposed. Use of regulations was overt, but the background politicking and dealing were quite opaque, scoring only 3 on the transparency scale. While local historic interests in place were, to a degree, protected, they hardly figured in the reasons behind the decision, which were political. Accordingly this case scores only 6 on the equity scale.

5.1.7 Sports-ground, Greyhounds or Superstore? (Case E-05)

This is a story of power-mongering, commercial and political battles. It shows how grounds can shift contingent on earlier outcomes, mistakes and changing circumstances.

DETAILS - Case E-05

| | | | |
|-------------------------|--|-----------------------|--------------------------------------|
| Site area: | 3.5 Ha. | Site type: | Urban - sports-ground |
| Dev. type: | Shops - Superstore | Location: | Suburban arterial road, 5 km. centre |
| Plan allocation: | Sport ground & road improvement | Policy use: | Retain plan use |
| Actual use: | Declining sports. Greyhound track | Outcome: | Permission granted |
| Project idea: | General | Application: | 27/04/88 |
| Decision/s: | 21/02/89 | Decision type: | Pressure negotiations after appeal |
| Actors: | Superstore, Contractors, Agent, Inspector, Political Leaders, Chief Planner, Officers, Politicians, 3p's | Agencies: | DoE, |

Time diagram - Case E-05

| 1970's | 1980 | 85 | 86 | 87 | 88 | 89 | 90 | 91 |
|--|--|--|---|---|---|---------------------------|--|---|
| / | / | / | / | / | / | / | / | / |
| Floodlights Petrol stns refused Office use established | Greyhound kennel use Dog track Long lease | Site put on sale S/Store assemble | 3 x S/Store & car park applications | Appeals dismissed this site favoured | House offers High Court challenge | New applic'n Appeal | Revision Public meeting Permit granted with conditions | Official opening Champagne B'ist CPO, etc. attend |

Synopsis - Case E-05

The County Rugby football ground was an important public open space in Weston's up market Northern suburb. But, following an early '70's refusal to allow floodlighting, it had become progressively less used. Successive attempts to obtain petrol station permits for its trunk road frontage during the '70's had failed, although its minor office use had been established toward the end of that decade. By the mid '80's this under use led to the sports and leisure use being shifted to that of greyhound kennels and dog race track. Yet even this was an under-use and perpetuated the decline. In concord with their dog track lease holder, the owners offered the site for sale.

Encouraged by central government's favourable policy, Safca, a major national food retailer who, moving with the shift to superstore retailing, was anxious to boost its market share, contracted to buy this and two small adjacent sites, subject to obtaining permission. In common with other national operators, its countrywide analysis had targeted certain towns on the basis of spending power and competition, after which its specialist property arm sought specific sites, since agents had no idea what to look for.

Whereas the land's value for housing was, at that time, circa £400,000 (subsequently rising to around £2.8m), for a Superstore it lay in a range between £3m and £30m., depending on competition and location. Eventually, with the 'extra's referred to below, Safca paid between £8 m. & £9m. (E-06/6). It was no surprise when one vendor appointed the District Valuer, another approached competitors to test prices, and a speculative attempt was made to acquire a 'ransom' holding; nor that 2 more competitor applications were submitted to the local planning authority at the same time. All were par for the course.

Although collusion between operators to pressure municipalities with several applications was not unknown, indeed one operator might make several direct, and Safca's policy was to watch competitors activity and run parallel applications, this was not the case here. Caught off guard, with no clear policy on such developments apart from 'No', politicians followed public opinion. From initial objection, by the time the 3rd application was submitted opinion was turning in favour. All were refused and appealed; at circa £25 - 30,000 for an average appeal, just part 'of whatever it takes' to get permission. The municipality asked for all applications to be considered by the Inspector, together. Dismissing them all he nevertheless gave strong indications in favour of Safca's site. Central Government policy, market forces, and developer (operator) pressure, were determining its future. But the war was not over.

As a matter of routine Safca lodged a High Court challenge to the Inspector's decision.. With local planners 'no match' for private sector professionals and resources, this put further pressure on them after so much effort, making them feel over-powered. But it was also a necessary tactic. Six weeks after an unchallenged refusal the owner was free to sell elsewhere. The challenge prevented this. Even accepting that they could not win this, it bought Safca time to submit another application, after which they could withdraw the challenge incurring only relatively nominal costs.

At their next meeting the planning officers informally conceded that Safca had won in principle. Even so, Safca took every opportunity to back them into a corner on any basis possible. Safca's agents now approached adjacent homeowners with 'offers they couldn't refuse' for their properties - £20,000 (30% 'ish) more than their market value. The deal done with the dog track leaseholder, Safca's team made concerted efforts to empathise with all opposition, from political leaders and councillors, to officers and residents' associations. Where deemed prudent personnel - and dress - were swapped to improve harmony. A pro-superstore lobby was created and its expenses paid for, as was a 'Rugby development officer'. Public meetings were held, and councillors and officers taken to view completed stores to correct 'misimpressions and promote their value.

To avoid accusations of undue influence, these trips were not lavish occasions, yet their effect was important; *"Members tend not to know what a Superstore really is. They have no experience to overcome their fears. Inside they found them not as big as they had thought. They were nice inside - a nice idea. An idea that the town really needed."* (E-06/6). The shop workers' union, who sponsored one local MP, was seen as a back door to gaining influence. Meetings in London secured his help in influencing the committee chairman, with whom good relationships were further established at social occasions.

With towns everywhere hit by the recession, the 230 or so jobs to be created became extra meaningful. All of this accompanied hard negotiations over the size of the store. There was much to play for. Originally planned for 7,300 square metres, the council pressed for 4,500 and 6,400 was eventually agreed. Design, landscaping, orientation, car parking, access, opening hours and delivery times were all fought over, as were planning gain benefits - during which Safca offered a Community Centre which, surprisingly, was not taken up.

Formally opened in early 1990, the Superstore is a success. Opinions have mellowed and many objectors have become supporters. Amidst arguments which still rage over damage to city centre trade, nearby traders acknowledge increased business, residents are pleased with the convenience and appearance, and there are few if any complaints about operating and delivery hours, even though Safca admit to deliberately breaking such conditions.

Figure 19 *Synopsis of case E-05 - 'Sports-ground, Greyhound or Superstore'*

5.1.8 Issues and pressures

Indisputably central government policy made this project possible. Safca admits to lobbying them to remove restrictions, retaining a specialist agency at nominal cost (£25,000 p.a.+ expenses) to do so. Presumably their competitors did likewise. Yet these efforts merely reflect attempts to adapt to the market forces reshaping retailing. When the 1970's local plan was being prepared, the Superstore concept did not exist in the UK. Whether or not this particular site, where publicly evident forces for change were bringing it forward for re-development, was chosen in preference to another is, to an extent, academic. It just happened to be available and to be judged most suitable.

The case depicts local politicians as vote conscious, followers of opinion, with public meetings attended only by objectors, making those keen to promote change fight shy of these for fear of encouraging bad press. In fact Safca's general policy was not to use the press directly, but to discover the views of members from the officers, identify the key actors for and against and those with power over decision, then tackle them in whatever way necessary. In all situations, as for example the store visits, they would isolate the most influential person and engage them in one to one discussion. For Safca the fight was about policies, not regulations, something not disputed by Weston. To this end they produced impact studies to prove that there would be no adverse effect on the vitality of the district or town centre. *"After several years of fighting, the party was split and initial left wing opposition reluctantly gave in."* (E-06/6), guided by the council leader and sponsored MP. As shown, neither of them was completely free of vested interests. Safca's approach to DoE Inspectors was similar, carefully finding out what s/he was like and reviewing case background decisions. In appeals they always used the same Queens Counsel to argue their case.

5.1.9 Practices - locating the decision and process

Two outstanding features of this case are Safca's specialism and ability to marshal and direct superior resources. From influencing central government policy to engaging the best professionals, from securing intimate national knowledge of their market to advancing the most persuasive arguments, from practised identification of key influencers to highly accomplished lobbying and presentation; their concentration, focus and weight of pressure in all aspects effectively overwhelmed Weston. Given national policy shifts reflecting the sea change in retail markets it was only a matter of time before Weston would be forced to accommodate Superstores. Progressively individuals came to see this. Indeed, although sworn to secrecy on details, one informant told of a case in Scotland where, having accepted this inevitability, tape recordings evidenced both council leaders and members trying to secure personal benefits for influencing the electorate and swaying decisions. However, although in this case the rules did not hold, they did impose a framework for procedure and negotiation in which the eventual decision must be seen as a process of change. Private interests secured change in national policy rules which led, through the use of rules of appeal, to change in local policy rules. In turn these over-rode plans and related principles. Accordingly the decision is seen as located across both quadrants 'C' & 'D' of the matrix (p.112) but, with public interests moderating the decision, only just inside the private interest sector. Whilst hard bargaining was a feature of the ultimate decision over size and conditions, commercial power, rather than negotiation, features in the decision process, which is governed more by policy. However, considering the near covert lobbying that occurred and the potential for the involvement of vested interests, the decision process is considered to involve both policy and negotiation decision processes. The structures and practices of lobbying revealed here may not be covert, but they are hardly transparent. Most interests seem to have achieved some representation in the outcome, albeit that they might have been 'bought off', like the neighbouring householders.

But this portrays more the financial muscle of the promoters and commercial power of markets, than the efficacy of the 'rules' which are far from immutable. Transparency scores 4, equity 7.

5.2 Eastville

Eastville's profile is similar to that of Weston. With few gaps in continuity this large, established industrial city has been governed by the Labour party since the 1940's; it is a major owner of land and property in and around the city and, until its abolition in the mid 1980's, was part of a metropolitan county. Thereafter, with no regional guidance available and its 1972 Structure Plan severely dated, it found itself in somewhat of a planning vacuum,. In the late 1980's and early '90's a spate of industrial 'rationalisation' closures occurred and several major inner city premises (factories, hospitals, warehouses, etc.) became redundant. At that time, of its' static, 300,000+ population, some 9% were unemployed. The Eastville cases illustrated here are:-

| Case | Dev. Type | Description | Site Type | Decision |
|------|---------------------------------------|---|-------------------|--------------|
| E-07 | Residential | Replace Hospital with Housing | Redevelop | Total change |
| E-08 | Mixed Commercial/Industry | B1 office/light industry | Greenfield | Total change |
| E-09 | Residential or Commercial | Housing or light industry | Brownfield | Total change |
| E-10 | Mixed resid, ind., shops | Factory & sports ground to Superstore, retail park & houses | Redevelop + Urban | Total change |
| E-11 | Mixed resid, ind, leisure, commercial | Atelier workshops, flats, restaurant, club, offices | Greenfield | Total change |

5.2.1 Eastville's redundant hospital (Case E-07)

Few things are more emotive than welfare, nor provide such opportunities for political posturing. But this case adds to the cocktail, providing an explosive mixture of health service cuts, care for the elderly, social housing, and changing retail practices.

DETAILS - Case E-07

| | | | |
|-------------------------|---|-----------------------|---|
| Site area: | 6.3 Ha. | Site type: | Redevelopment - redundant hospital |
| Dev. type | Close care residential & related | Location: | 1 Km. city centre |
| Plan allocation: | Hospital | Policy use: | Hospital - no other consideration |
| Actual use: | Hospital - geriatric specialisation | Outcome: | Total change |
| Project idea: | Mid 1987 | Application: | 26/11/87 |
| Decision/s: | April 1988 | Decision type: | Negotiated |
| Actors: | Owner applicants, Consultants, Chief planner, Political leader, Councillor, Developer | Agencies: | Health Authority, SoS Health, SoS Environment, Housing Assoc'n. |

Time diagram - Case E-07

| 1980's | 86 | 87 | 88 | 89 | 90 | 91 | 92 | 93 | 94 |
|----------------------------|---|---|--|--|---|----------------------------------|--|---------|------------------|
| / | / | / | / | / | / | / | / | / | / |
| Govt health service policy | AHA Rationalisation closure & sale prop'd | SoSH gives OK AHA open talk with LPA - No to resid. want Tech park Objections to closure Local elections | Outline application Concern for implementation. No density policy. PP approved Idea then develops Land option to HA | Start to discuss detail Forward planning consider alternatives 250 jobs possible Poss. extend dev. area HA buy site Housing mkt collapse | HA cost/ price problem Need to cross subsidise | Need S/store to fund LPA against | S/store application Refusal Appeal | Allowed | S/store opens 94 |

Synopsis - Case E-07

Eastville's 1972 Town Map didn't foresee the health service rationalisation measures taken by the Conservative Government in the early 1980's. A hospital was a hospital, regardless of when or to what standard it was built. Eastville's city fathers and administrators thus excused themselves in response to the announcement that the Area Health Authority (AHA) was to close and sell this hospital, allocating the capital for other purposes. In fact, although providing the Labour authority with a wonderful campaign weapon virtually on the eve of the 1987 local elections, they were taken completely off guard. Not only were no alternative policies available, none were even contemplated. The press had a field-day but, due to the political overtones, generally misinformed the public.

Pressured by multiple objections from Unions, Disability and other Action Associations, as well as individuals, and totally opposed to the closure, the municipality failed to win over the Secretary of State for Health, who confirmed the decision. Rapid assembly of data showed a shortage of prime industrial sites, a balance for offices, a modest oversupply of housing land, and the prospect of a housing oversupply by 2001, ruling out housing. Although central government's policy guidance note, PPG¹¹⁰, advised authorities to look at retail policies, these were out of date and still conditioned by former Metropolitan Authority thinking, which considered provisions adequate. If anything a Technical Park was seen as the answer.

Enter the director of a major, locally based housing association which was engaging in retirement housing. *"Get the AHA to add a care element to this"*, she thought, *"and, hey presto, a mutually beneficial way out could be provided for everyone."* Her managing director bit hard. Keen to promote himself as entrepreneurial, being 'first' was a priority. Regardless of the association's original ethos its ideology had become diluted and, influenced by American ideas, he ignored market advice to forget the 15 acre site. After all, 11 were still developable. Subject to the AHA obtaining planning permission, he agreed, at £7m., (the AHA were also being advised by private consultants) to pay over the odds for it.

The lady director's organised lobbying strategy was to persuade people not to take the closure as all negative but, instead, to ask *"What benefits can come out of this for the city?"* Pitching the idea to councillors, she persuaded them that the proposal was a unique scheme for the elderly. Her vision was of a 'village', less dense than those in the USA, with service shops, leisure facilities, pub, restaurant and other amenities. But, financially, this didn't quite work as a housing association social rental project, despite attempts to manipulate the benefits system for the elderly, e.g. social services, meals on wheels, etc. - all things which the municipality could not cope with in relation to the project. In her view the LPA appeared 'blind' as far as the plan was concerned. Since the LPA's development stance was 'anything but residential', anything else could be considered.

With the site having long frontage to a busy trunk road, her solution to the adverse finances was to get permission for a high value Superstore to cross-subsidise the housing. Her MD took this on board, but refused to allow this to be discussed at that time. The deal with the AHA was for conversion and new housing, anything else could rock this boat, and the AHA had to get the permits.

Long negotiations ensued with Eastville via the AHA. The association didn't figure in these at all. Eastville's eyes were set on industry - a technical park - not housing. But the AHA dug their heels in. Housing it would be. Whatever the outcome, as a plan departure Eastville was required to seek SoS for Environment approval. But, via the SoS for Health, the AHA 'had his ear'. He refused to intervene.

Eastville weakened. Social housing would be considered. Despite one committee member's concern about Eastville's inability to ensure implementation, and the case officer's observations that the association would be 'running at a loss' (E-07/1), PPG6 directed local authorities not to concern themselves with commercial aspects. Accordingly these were ignored and the employment arguments for the site, swallowed.

After outline permission had been granted, the housing association completed the purchase. Only then was a presentation of the proposals shown to members and officers. Requirements and standards for this type of development were different, for example with regard to parking, access, care, and need for environmental facilities. Few, if any, appropriate 'rules' were in place.

Discussions over development mix ensued as a detailed application was worked out. The benefits and possible adverse impacts of developing adjacent allotment and inner 'green belt' lands were brought into consideration, as were a range of other rules influencing the association's position. Here the housing association's need for new headquarters offices could be satisfied as part of a total package. Progressively the need

¹¹⁰ PPG: Central Government's *Planning Policy Guidance* to local authorities, advising on policy, etc.

for a commercial element emerged as the 'Superstore'. Privately Eastville's officers declared that they would "...fight (the association) all the way..." (E-07/5).

They did, but they lost. The Superstore opened in 1994 with a much revised housing project behind it.

Figure 20 Synopsis of case E-07 - *'The redundant hospital'*

5.2.2 Issues and processes

The effects of medical technology, living standards, infrastructures, demographics and the like on hospital requirements, locations and buildings were not unpredictable. Neither was Central Government policy - it was declared. Yet these issues were encapsulated in political portrayals of central government as 'wicked' (to be depriving people of hospitals), concealing the problems faced by Eastville's lack of policy response. But, whether right or wrong, neither central government nor the AHA had prepared the ground. The closure announcement was a bombshell, and reactions were knee-jerk. As the lady director of the housing association observed *"If the planners say there is a huge need for 'X', then there is no way they should allow anything else."* Eastville's office sites were adequate. They had no housing need and in any event this site was considered 'too isolated and not suitable for general housing'. Indeed, as one objector noted, *"It is polluted from the nearby waste reduction plant and, with the construction of a planned road, will become a traffic island, unreachable by able-bodied pedestrians, let alone the aged and infirm."* While Eastville had identified a need for industrial sites in prime locations, of which this was one, the close care idea was clever. It allowed Eastville to consider use class C2, i.e. residential accommodation for people in need of care ... a hospital or nursing home ... a residential school, college or training establishment. Faced with the problem, other policies - allotments, the inner green belt, *et al* - all seemed to go into the melting pot.

Neither planning rules, policies nor principles seem to come out well from this affair. Central Government's health rationalisation policy, superficially nothing to do with 'planning', had the tacit support of the SoSE. Ultimately, whatever he said, would go. This meant that, at a stroke, Eastville's policies were effectively consigned to the dustbin. The overriding issue was neither rules nor planning principles, but preparedness for change. Hidden agenda's also play a part. Eastville, like the AHA's consultants, ought to have seen the Superstore proposal coming. The location, central government policy, market conditions, were all positive for this. The commercial viability of the village project should have been questioned but, even if the LPA had been so mindful, PPG6¹¹¹ precluded this. While determination and personal ego clearly play a part in such affairs, perhaps over-riding these was the Labour Council's apparent distraction with harnessing the mass of public protest toward bringing down the Tory government, a fact remarked on by all informants. Quite simply, politics got in the way of the 'rules'.

5.2.3 Practices - Locating the decision and process

The housing association admits to playing with the 'rules', of adapting their proposals to suit the

¹¹¹ PPG6 *Town Centres & Retail Developments*, HMSO, July 1993. Underlines the important contribution retail activity can make to securing the vitality and viability of town centres and villages

regulations, and to having a secret Superstore agenda. Eastville was prepared to ignore evidence, trend data, plans and other long standing policies, to reach a politically driven palliative solution to their dilemma. This totally negotiated decision is clearly located in quadrant 'C' of the matrix (p.112) and follows the negotiated decision process, with many factors hidden in its 'black box'. Once again this case seems to be a sub-game of national, rather than local, politics and says much about the power of central direction in England. Coupled with the hidden commercial agendas and the municipality floundering, the practices involved are hardly matters of formal record or public inspection. However, although *due process* for 'rules' gets short shrift, practices were in the public arena enabling transparency to score 4. Despite this, historic interests clearly lost out to those of commerce. With resident and other objections, including those for the future, effectively ignored, concern for equity was, at best, nominal and scores a mere 1.

5.2.4 City farm fruits private profits (Case E-08)

Pointing up the power of personality, this case raises questions about the nature of business astuteness, probable ineptitude, and possible deception. Involving two municipalities, it contrasts the power of position with projected financial and investment muscle, illustrating the way in which the two can work together and the consequences when they fall out.

DETAILS - Case E-08

| | | | |
|-------------------------|---|-----------------------|--|
| Site area: | 9 Ha. | Site type: | Greenfield - part of 38 Ha. Fruit farm |
| Dev. type: | Mixed - Light ind/commercial | Location: | City boundary |
| Plan allocation: | Public Open Space (Green Belt) | Policy use: | No policy |
| Actual use: | Vacant, abandoned | Outcome: | Complete change |
| Project idea: | Developer / CPO | Application: | 12/10/90 |
| Decision/s: | 21/11/90 | Decision type: | Negotiated / persuaded |
| Actors: | Developer, Consultants, Counsel Financiers / investors Chief planner, officer, adj. council | Agencies: | DoE, DoT, SoSE |

Time diagram - Case E-08

| 1985 | 86 | 87 | 88 | 89 | 90 | 91 | 92 |
|---|----------------------------------|---|--|--|---|--|----|
| / | / | / | / | / | / | / | / |
| EIP's consider replacement structure plan | Appln for 2 Petrol Stn's refused | SoSe accepts draw back GB to line of new bypass Adj. borough review plan. Joint planning policy study Blight notice, City buy | East City Study = no dev. potential - topography, access, sewers, env., woods. Keep as agric. OS Dev. targets city. | Dev. agrees to buy Housing application Refused-aircraft noise 2 appln's withdrawn Green tide of opinion LPA go for green space | Bad Press - vandalism DoT approach = 'No' LPA = undevelopable Cmml application withdn. Traffic study Access resolved 2 applns refused Home market collapses, recession sets in. | Site 'sold' UDP on deposit Object not included Appeal - public enq. Allowed - PP given | |

Synopsis - Case E-08

For 30 years or more Eastville's proposed by-pass had threatened physical division from county neighbour Ovalton. In 1986/7 it became a reality, swathing through the Green Belt and causing the SoS for Environment (SoSE) to remove this and allowing the new road to form a hard edge to the city. This left both towns without a statutory allocation for the affected land. The road cut a small fruit farm in two and, in response to a blight notice, Eastville's estates department purchased the land, part of which, on Eastville's side of the bypass, was actually in Ovalton's planning area.

Under direction from the Department of Transport (DoT) two applications for petrol stations with restaurant, cafe and service facilities on this were refused by Eastville and a joint planning policy study was established by the municipalities. Ovalton reviewed its town plan and Eastville conducted a city sector study. The latter recommended that, for topographic, sewerage, access, environmental, and ancient woodland (SSSI) reasons, the land in question should remain as agricultural open space with no development being entertained. Meanwhile Eastville's UDP proposals were also advancing, re-designating the Green Belt area as 'Urban Green Space'.

Now at about this time Eastville, suffering from multiple employment closures, had been targeted as having great prospects by Blarney Stone, a persuasive 'developer'. In fact he developed very little, but traded in land and property. He was a speculator. Nevertheless he had, apparently, great financial backing and great ideas. Well introduced, he quickly befriended the Chief Planning Officer (CPO), set about acquiring several important inner city sites, and worked up proposals to re-develop them to accord with the CPO's vision.

His energy and commitment impressed the CPO, who began to see him as 'a magician' (E-08/3), responded by indicating various other sites that might be of interest, of which this was one. With such credentials a deal was soon arranged with Eastville's estates department on terms sufficiently attractive to persuade Blarney to go against his local agent's advice not to buy the site.

To 'test the water', as Blarney's architects put it, and with the housing market at its peak, a 'soft option' application for housing was submitted. Accepting its refusal as predictable, this drew out Eastville's strength and resolve, neither of which appeared substantial. A game of strategy and tactics commenced. Blarney submitted several more applications, amending housing types, layouts and locations (one reason for refusal had been noise from a flight path), offices, and hotel. Through his local agents, Blarney provided evidence of demand for these. The planners countered with housing land statements, office capacity, and employment site projections for both the city and relevant surrounding area. Each application was withdrawn, one at the last moment - the day before the committee.

In this way, Blarney's team tested and probed and eventually drew the officers to advise the committee that the strategic case for release was finely balanced. The CPO conceded that development was possible *if* the DoT would allow access to the bypass. He persuaded Blarney to withdraw his latest application whilst he tried to negotiate this with the DoT, but they refused even a 'left in, left out' (access/egress) development.

In a new application for class B1 industrial development, Blarney's team now proposed an alternative trunk road access. His nationally recognised consulting engineers demonstrated that, given the new bypass and other road re-arrangements, total traffic onto this would be 25% less than in 1987. In November 1990 the application was turned down. But the argument had become one of access, with the CPO advising the committee that, after all, *"... the site has long term development potential"* and, in contradiction of the UDP proposals, *"merits exclusion from the Green Belt."*

In January 1991 a London based planning consultant, Mr Smart, wrote to the CPO advising that the land was owned by his clients, an offshore investment company, that Blarney Stone, their 'project manager', had moved on, that he, Smart, had taken over from the local architect and planning consultants, and was giving notice of intention to appeal against Eastville's last decision. From the case officer he understood that, subject to there being no conflict with Ovalton's policy, either B1, Hotel, Headquarters Offices, or Training would be acceptable development (the files evidenced this). Accordingly, it was his intention to appeal against the last decision. Additionally, the replacements for the previous local property agents had a new series of objectives to consider.

Mr. Smart requested a meeting with the CPO for him and his clients who would fly in, via Heathrow, especially for this. The CPO saw no merit in a meeting and advised that technically, per the approved development plan, the land was still considered as Green Belt. The UDP was to go on deposit. Smart, objecting that his client's land was excluded for development, appealed against Eastville's earlier decision and lodged a separate appeal against Ovalton.

This done, he now made himself busy 'playing the two authorities against one another' (E-08/2) and 'negotiating' the proposal. Lobbying Ovalton's case officer, over lunch he persuading him to put a statement in Ovalton's local plan sympathetic to Smart's case. In return, development on Ovalton land was removed and concentrated in Eastville's sector. This had an important effect on the status of that part of the land under Ovalton's authority, neutralising its earlier objections to development. These included visual prominence, the need for a soft edge and buffer to Eastville, undesirable urban extension, no plan allocation, and lack of evidence that such development was needed. It suited Smart in other ways, weakening opposition by providing a 'safeguard zone' to the SSSI ancient woodland, reducing site works, and reducing the number of authorities to deal with. This also meant that, arguably, the development could also be accessed as two separate sections from existing estate roads.

By the time of the appeal hearing in July, Smart had a thorough grasp of the strengths and weaknesses of all sides, including those of the Inspector, who "...probably has an economic planning background" (E-08/2). Appropriate leading counsel was engaged and, at the hearing, "totally stuffed" Eastville which was not prepared either well or strategically (E-08/2). Eastville's solicitor had only 2 years experience, the case officer had attended very few appeals, case files presented to support their case evidenced the full range of LPA considerations, officer advice to politicians, and the CPO's judgement that the applicants "*would get planning permission eventually*". Additionally, the Chairman of the Development Committee's evidence was made suspect when, at the time the application was refused, he was shown to have been acting more as a ward councillor than impartial chairman.

By this time economic and market circumstances had changed. The housing market had collapsed, industry and commerce were in recession, and only retail development was still growing. In August 1991 the Inspector allowed the appeal, granting permission for the B1 development. In 1992 Smart submitted a new application for a Superstore. At the time of these enquiries it looked as if this would also go to appeal. In late 1996 the site opened as an out of town retail park.

Figure 21 Synopsis of case E-08 - '*City farm fruits private profits*'

5.2.5 Issues and pressures

The extent of the Chief Planning Officer's vision for restructuring Eastville is unclear. But economic regeneration would seem to have severely disrupted its making of plans and policies. How Blamey Stone targeted the city is also unknown, but Eastville's plight made the apparent strength of his intervention most welcome. Yet, from the application, which showed Eastville's estates department as the land owners, perhaps this was suspect from the start. The case officer saw no purpose in challenging the deception over ownership, and only became suspicious when numerous new grounds and ideas were introduced. In retrospect Blamey's real target seems to have been whatever was the most profitable development at the time, shifting first from housing to hotels to B1 and then a Superstore. Indeed Mr. Smart indicates that this was a much earlier idea that first needed the establishment of the principle that the land was ripe for development. Sincerity from Eastville's side is also made suspect by the fluctuating nature and range of concerns, as witnessed by the CPO's actions and statements. The real issues, it would seem, were few, but the economic pressures great. Residents concerns seem to have been treated as secondary, except by the committee Chairman who had electoral considerations. Safety and environmental issues, like the flight path, noise, woodland protection, and visual impacts, appeared negotiable. Practically, many difficulties seem to have arisen from the lack of agreement over development plans between Ovalton and Eastville.

5.2.6 Practices - locating the decision and process

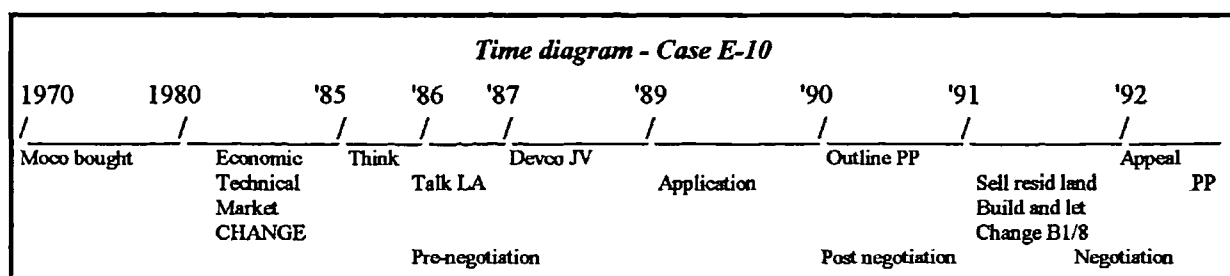
This case provides a range of possibilities for locating both decision and process. The bypass and SoSE's Green Belt decision removed some of the rules. Those which remained in place, e.g. the 1972 Review Town Map, were out of date, but replacement plans and policies had not been determined nor agreed between the municipalities. A process of negotiation ensued in which, it appeared, anything could be considered. However, certain technical standards embodied in regulations interfered with this, especially those relating to traffic and noise. These altered the approach to development type and mix, but not the principle of development -v- no development. Eastville's negotiations with the Department of Transport evidenced their assistance in trying to secure some development at a time when

to do so might be regarded as an encouragement, if not a favour, to secure other regeneration developments from Blarney. Equally, their subsequent opposition marked the withdrawal of such co-operation when it became clear that these might prove illusory. So, regardless of regulatory refusal and appeal, the case represents simple hard bargaining, with the rules being totally negotiable in support of Blarney Stone's pursuit of maximum profit. The conundrum is whether or not, at least initially, such bargaining was intended to secure public benefit, via regeneration, for Eastville. On balance this is the view taken and, since rules were eventually used to some effect, whatever the motive, the decision is placed toward both axes within quadrant 'C' of the matrix (p.112). Whether or not conducted with the knowledge of Eastville's CPO, Blarney Stone's team admits the strategy of 'setting up' local representatives to establish the 'ground rules' and perhaps creating a false sense of comfort for Eastville's officers, before bringing in more high powered, national consultants. Given the range of possible intrigues, the negotiated process would seem to be the appropriate model in this case. Blarney may have projected himself as the magician, but although his shenanigans were eventually seen through this was not before local plans, policy and 'rules' in general had been re-arranged to suit his objective. Practices were covert and, whatever the decision, concern for present and future interests in local place negligible within these dealings. However, the CPO's regard for the city's wider economic interests mitigate this to some extent. Transparency scores 2 and equity 3.

5.2.7 Eastville's unwanted superstore and retail park (Case E-10)

In this case the landowners and developers secured permits to redevelop an operating factory, sports fields and social facilities, against prevailing plans, policies, and public opinion.

| DETAILS | | | |
|----------------------|---|-----------------------|--------------------------------------|
| Site area: | 10 Ha. | Site Type: | Redevelopment |
| Dev. Type: | Mixed - residential, ind., shops | Location: | 1.5Km. of centre. |
| Planned use: | Factory & Sports field | Policy use: | Factory and Sports field - No change |
| Actual use: | Factory & Sports field | Outcome: | Total change |
| Project idea: | 1986 | Application: | Late 1988 |
| Decision/s: | 1989 - 91 | Decision type: | Negotiated (hard bargains) |
| Actors: | Chief Planner, Political leader | Agencies: | SoSE |
| | Landowner, Consultants, Unions, Media, 3rd parties, Interest groups | | |



Synopsis - Case E-10

In the early 1980's Moco, Eastville's 18th largest employer, faced changes in production methods and markets. After deciding that its premises, built mainly in the 1920's and '30's, were outdated, it entered discussions with Eastville to redevelop on the same site, utilising the Company's adjacent sports ground to minimise disruption. This was agreed in principle but, on second thoughts, Moco claimed this to be impractical.

ble. In concert with a property development company, Devco, they applied for permission to redevelop the factory and urban playing fields, occupying in total some 10 Ha. within 1.5 Km. of Eastville's centre, as a superstore, small industrial units, and housing estate.

Eastville had no local plan for the area, but policies affecting the site included protection of city centre re-tailing (much of which property was owned by the city), maintaining the established hierarchy of shopping centres and avoiding superstores (a hangover from the metropolitan county), the preservation of sports fields as local amenities (numerous attempts had been/were being made to breach this elsewhere), promotion of development which could regenerate the city's economy (which "...needs the adequate supply of employment land, the encouragement of the continual revival of manufacturing industry, and the encouragement of diversification of the city's employment base"), and support for the former metropolitan county Structure Plan. Although situated on the junction of two major roads, these were municipal highways and no referral to the Department of transport was required.

Faced by all party opposition, Devco opened negotiation with the chief planning officer and the Chair of the planning committee. They commissioned a traffic impact analysis, offered cash to improve the roads, and produced a report comparing Eastville with other towns. The municipality conducted a shopping survey. All were favourable to the proposal. Denied such material reasons for refusal and faced with national policies favouring this type of project, Eastville's officers advised the politicians that, if permission were refused and the application taken to appeal, Eastville was likely to lose at a cost of around £100,000. After 18 months of negotiation and preparation, and before the formal application was submitted, the Chief planning officer wrote to Devco and Moco effectively confirming an informal agreement to support the grant of permission.

Members of the planning committee responded to a wave of objections from residents, traders, and special interest groups by preferring housing. But Devco and Moco, having secured the goodwill and backing of the officers and senior politicians, progressively addressed the anti-development lobby's points. Six months later outline permission was given for the whole site to be developed in 3 phases.

Figure 22 Synopsis of case E-10 - *'The unwanted superstore and retail park'*

5.2.8 Issues and processes

Moco and Eastville were both the victims of change. Outdated and less than ideally located premises squeezed profits and made it difficult for Moco to adopt new technologies in producing new products to retain its world markets. Economic change had eaten into cash reserves. It could not survive as it was - and could not afford to redevelop where it was - without a capital injection. It needed £9m. for new premises, but its old factory was worth only £2.5m. to £3m. Central government controls on City spending precluded Eastville from compulsorily purchasing the site. Changes in retailing practices and central government policy provided the solution but threatened Eastville's investments and policies. But these changes were Devco's ally. Little by little, using their industry knowledge and negotiating skills and aided by leading professional advisors (surveyors, planning counsel, transport consultants) Devco built relationships with officers and politicians. They turned Eastville's concern for jobs and existing property investments, Moco's lobbying powers and connections (PR and unions), and public need for improved infrastructure and amenities, to advantage. By avoiding confrontation, Eastville's alternative interests (retain industry, add retail employment, acquire ready industrial tenants and convert city owned agricultural land to a tenanted sports field) were substituted for their outdated plan, policy dogmas and political reaction to public pressures. Enjoining planning officers and leading politicians in this new cause secured permits from an adjacent authority (sports field), promoted pre-lets and sales for Devco, and manoeuvred committee consent. Subsequently, playing the rules to advantage, and politician's greed for a share in development gain (against officer resistance),

and two weeks before an appeal hearing Devco converted the outline consent for B1 and B8 industrial use into a retail park, realising a gross site value in excess of £17m., of which Moco received £14m., moved to a purpose built plant on Eastville's new development, and built a new sports complex on Eastville's former agricultural land in the adjacent authority. Plans and policies prevailing when the concept was born were displaced by a previously unthinkable project.

5.2.9 Practices - Locating the decision and process

Local 'rules' were made ineffective by national 'rules' resulting in a situation where negotiation and bargaining effectively replaced them. Where Public Interest benefited this was mainly because this was also in Moco and Devco's interests. Thus the decision in this case can be typified as falling within the lower right hand quadrant of the decision matrix (p.112). The application and planning decision process can be said to have followed model 3, the negotiation model. Almost totally negotiated outside the 'rules' applying at the time the project idea was born, the only parts of the process which were open were those which suited the interests of the negotiators. Transparency scores 1. From the way in which politicians and officers fought to retain policies and plans, clearly they saw these as being in the public interest, but they were over-ridden as both they and local historic interest were replaced by a new awareness of changed circumstances and grudging decision to grant permission. Nevertheless, and despite their counter arguments, some non-resource interests did gain, securing the case a score of 4 on the equity scale.

5.3 The English development permit decision process

In England one might expect formal plans and other legislative regulations to play a major part in development control decisions. Where they do so, this is as performance criteria and not conformance demanding plans. The system is supposedly policy orientated and performance driven, with discretionary decisions being directed toward the public interest via flexible plans and other 'rules' which have in-built checks and balances.

5.3.1 Decision models and English practices

Table 10 collects the heuristic decision types (Ch.4) identified in each case and allocates a maximum score of 3 points between them according to the practices observed. If practices follow some other process then either no score or a partial score may be given.

Although based on only 6 cases drawn from 2 cit-

ies, these observations suggest the *negotiation* model as the dominant English practice. When the same basis of points allocation is applied to the other 5 English cases, a similar trend is present, something recognised by many informants for major private development applications. Where the

| The English permit decision process | | | |
|-------------------------------------|------|-----------|--------|
| Case | Plan | Negotiate | Policy |
| E-01 | | 1.5 | 1.5 |
| E-02 | 1.5 | | 1.5 |
| E-05 | | 1.5 | 1.5 |
| E-07 | | 3 | |
| E-08 | | 3 | |
| E-10 | | 3 | |
| Totals | 1.5 | 12 | 4.5 |

Table 10 *Decision models and English practices*

policy model is present, this is either combined with *negotiation* or *plan* models, a situation discussed further in the comparison of all 32 cases (Ch.13-16)

5.3.2 English rules -v- English interests

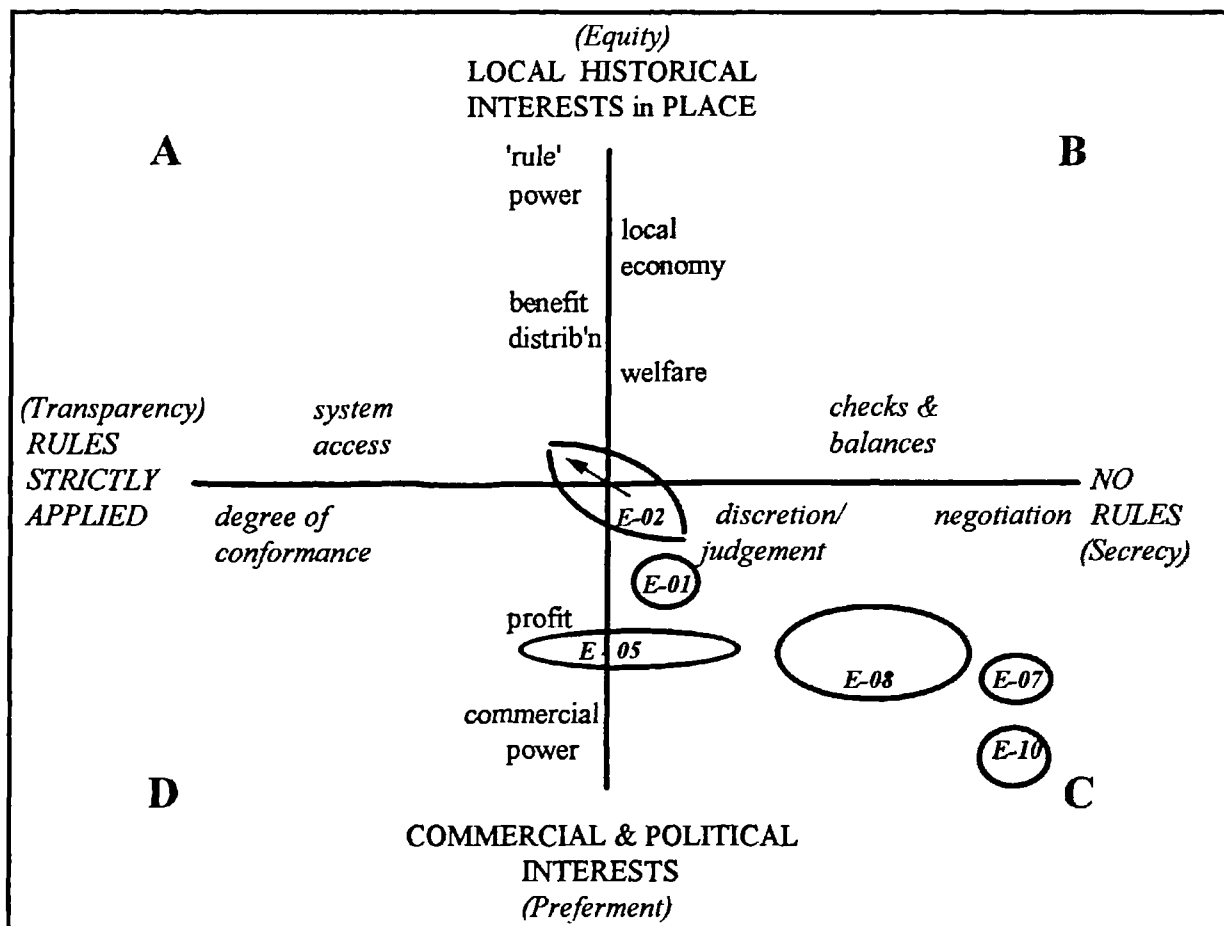


Figure 23: Matrix of rules, interests and power in English land-use decision making (source : author)

While the matrix (Figure 23, p.112) makes no attempt to locate individual decisions with any detailed accuracy, it shows how this is reflected in practice. Although no more than a simple, pictorial representation of the conclusions drawn about what informed each decision, it gives an over-view of how these relate to one another. The general indication seems clear. Apart from two cases, E-02 & E-05, where higher rules framed the final outcome, the general tendency appears to be away from community interest and related policy considerations toward private and politically orientated interests where decisions turn on bargaining and negotiation. This suggests a relationship between decisions which pay full regard to local interests and equity, and also between those which strictly apply the 'rules' and transparency. Accordingly these dimensions have now been superimposed on the matrix for all countries, with *Preferment* being associated with Commercial & Political Interests and *Secrecy* linked to No Rules.

5.3.3 Ranking factors in the decision making process

From the foregoing consideration of the issues, pressures, and decision process in practice a list of

factors contributing to these decisions can be constructed. In Table 11¹¹², p.114, these have been given weights according to their perceived importance in those decisions where they occur (high = 3, medium = 2, low = 1). The table then shows the number (count) of times they occur, and averages their total weight both by this count and, since a high weight for a single count would give undue importance to such item, by all six cases. The list is then ranked by both count and average weight over all six cases, being sorted in the order of the latter.

The importance given to the town map being out of date is, perhaps, moderated by the fact that all six cases came from only two cities. Even so, this was considered of medium or high importance in the decision making process and of itself indicates why rule manipulation ranks second, as decision makers and applicants strive to address circumstances possibly unforeseen in the obsolete plans. This observation supports the third place ranking of regeneration pressures and also helps to explain why lobbying, negotiation, and covert processes occupy equal third place, confirming the decision placements on the matrix (Figure 23, p.112). The importance of political pressures, pre-negotiation, and the presence of hidden agendas in five of the six cases also adds strength to these locations. Likewise the relatively high 4th (10 =) and 5th (16 =) positions of political issues, private interests, image promotion, market pressures and political interests as compared with public interests/benefits at 11th (37 =) with this being considered of importance in only one case, confirms the tendency noted above. This may have something to do with how the processes are driven. Local authorities, supposedly the institutional guardians of the public interest (21 =), appear usurped by individual & corporate drivers, with developers introducing their own tactics and rules (10 =). This accords with the considerations of transparency and equity in each case.

Apart from the appeal process (16 =), which played some part in five of the six cases - often by developers threatening such action but also as part of a political game- rules appear to have little importance in framing the process (32 =). The much contended question of planning gain and jobs, notionally both public interest concerns (32 =), also appears to have played a very small part, as do environmental interests (37 =). It is then, perhaps not surprising to find that plan following and plan and rule based procedures (43 =) did not feature in one of the cases - although rules were considered to frame the process in two instances (32 =) - and that planning issues (42 =) received but one inclusion. The presence of, or potential for, corruption was recognised in two cases (37 =) but, along with the transparency of processes (32 =), is given very low significance. Indeed media influence (30 =) seems, overall, to have been more important.

Although infrastructure (26 =), technological (28 =) economic (30 =), and policy (28 =) issues may all interact with, and even lie behind, regeneration pressures, as individual considerations they do not

¹¹² Such list and weighting is subjective. Another researcher considering the same data might select other factors and accord them different importance. However, this list enjoys the consistency brought by a single researchers view of all data.

| //English Case Factors // | E-01 | E-02 | E-05 | E-07 | E-08 | E-10 | Count of factor | Total weight | Av wt count | Av wt 6 cases | Rank by Count | Rank by Av Wt |
|---------------------------|------|------|------|------|------|------|-----------------|--------------|-------------|---------------|---------------|---------------|
| Town plan out of date | 3 | 2 | 2 | 2 | 2 | 2 | 6 | 13 | 2.17 | 2.17 | 1 | 1 |
| Rule manipulation | 2 | 3 | | 2 | 3 | 2 | 5 | 12 | 2.40 | 2.00 | 3 | 2 |
| Regeneration pressures | 3 | | | 3 | 3 | 2 | 4 | 11 | 2.75 | 1.83 | 8 | 3 |
| Lobbying | | 2 | 3 | | 3 | 3 | 4 | 11 | 2.75 | 1.83 | 8 | 3 |
| Negot'n based process | 3 | 2 | | | 3 | 3 | 4 | 11 | 2.75 | 1.83 | 8 | 3 |
| Covert process | 2 | 2 | 2 | 1 | 2 | 2 | 6 | 11 | 1.83 | 1.83 | 1 | 3 |
| Political pressures /el'n | 1 | 3 | 2 | 3 | 1 | | 5 | 10 | 2.00 | 1.67 | 3 | 7 |
| Pre-negotiation | 1 | 3 | | | 3 | 3 | 4 | 10 | 2.50 | 1.67 | 8 | 7 |
| Other agenda | 2 | 2 | | 2 | 2 | 2 | 5 | 10 | 2.00 | 1.67 | 3 | 7 |
| Individual driven | 1 | 1 | | 2 | 3 | 2 | 5 | 9 | 1.80 | 1.50 | 3 | 10 |
| Corporate driven | 3 | 2 | 3 | | | 1 | 4 | 9 | 2.25 | 1.50 | 8 | 10 |
| Developer tactics/rules | | | 3 | 1 | 3 | 2 | 4 | 9 | 2.25 | 1.50 | 8 | 10 |
| Political issues | 3 | 3 | | 3 | | | 3 | 9 | 3.00 | 1.50 | 21 | 10 |
| Private interests | 1 | 2 | 3 | | | 3 | 4 | 9 | 2.25 | 1.50 | 8 | 10 |
| Image promotion | 3 | 2 | | 3 | | 1 | 4 | 9 | 2.25 | 1.50 | 8 | 10 |
| Appeal proc. Important | | 1 | 3 | 1 | 2 | 1 | 5 | 8 | 1.60 | 1.33 | 3 | 16 |
| Market pressures | 1 | 2 | 3 | | | 2 | 4 | 8 | 2.00 | 1.33 | 8 | 16 |
| Policy based process | | 1 | 3 | 3 | 1 | | 4 | 8 | 2.00 | 1.33 | 8 | 16 |
| Rules over-ridden | | | 3 | 3 | | 2 | 3 | 8 | 2.67 | 1.33 | 21 | 16 |
| Political interests | | 2 | 3 | 3 | | | 3 | 8 | 2.67 | 1.33 | 21 | 16 |
| Institutional driven | | 3 | 1 | 3 | | | 3 | 7 | 2.33 | 1.17 | 21 | 21 |
| Long process of change | 3 | | 2 | | | 2 | 3 | 7 | 2.33 | 1.17 | 21 | 21 |
| Societal change | 2 | 1 | 2 | 2 | | | 4 | 7 | 1.75 | 1.17 | 8 | 21 |
| Rule & policy conflicts | 1 | 2 | | | 2 | 2 | 4 | 7 | 1.75 | 1.17 | 8 | 21 |
| Speculation | | 2 | | 2 | 3 | | 3 | 7 | 2.33 | 1.17 | 21 | 21 |
| 'Deal' arranged | 1 | 2 | | | 2 | 1 | 4 | 6 | 1.50 | 1.00 | 8 | 26 |
| Infrastructure change | | 3 | | | 3 | | 2 | 6 | 3.00 | 1.00 | 29 | 26 |
| Technological change | | | 2 | 1 | | 2 | 3 | 5 | 1.67 | 0.83 | 21 | 28 |
| Policy issues | | | 2 | 3 | | | 2 | 5 | 2.50 | 0.83 | 29 | 28 |
| Media influence | | 2 | | 1 | | 1 | 3 | 4 | 1.33 | 0.67 | 21 | 30 |
| Economic issues | | 1 | | | | 3 | 2 | 4 | 2.00 | 0.67 | 29 | 30 |
| Rules frame process | | | 2 | | | 1 | 2 | 3 | 1.50 | 0.50 | 29 | 32 |
| Post negotiation | | | 2 | | | 1 | 2 | 3 | 1.50 | 0.50 | 29 | 32 |
| Jobs | | | | | | 3 | 1 | 3 | 3.00 | 0.50 | 39 | 32 |
| Transparent process | 1 | | | 2 | | | 2 | 3 | 1.50 | 0.50 | 29 | 32 |
| Planning gain | | 2 | | | | 1 | 2 | 3 | 1.50 | 0.50 | 29 | 32 |
| Corruption | | 1 | 1 | | | | 2 | 2 | 1.00 | 0.33 | 29 | 37 |
| Local rules followed | | 2 | | | | | 1 | 2 | 2.00 | 0.33 | 39 | 37 |
| Environmental issues | | 1 | | | 1 | | 2 | 2 | 1.00 | 0.33 | 29 | 37 |
| Cmmty interests /benefit | | | | | 2 | | 1 | 2 | 2.00 | 0.33 | 39 | 37 |
| Investment interests | 1 | | | | | 1 | 2 | 2 | 1.00 | 0.33 | 29 | 37 |
| Planning issues | | 1 | | | | | 1 | 1 | 1.00 | 0.17 | 39 | 42 |
| Plan & rule based proc. | | | | | | | 0 | 0 | | 0.00 | 43 | 43 |
| Plans followed | | | | | | | 0 | 0 | | 0.00 | 43 | 43 |

Table 11 Factors in the decision making process of 6 English major commercial developments

take on major significance. Instead it is suggested here that in apparent contradiction of the observations on equity (5.3.4) all of these become swept up in political and corporate over-simplifications aimed at commercial and electoral market places. Thus it would seem that the burden of balancing all

interests equitably falls on the shoulders of planning officers more than anyone else.

5.3.4 Indicators of transparency and equity

Indicators of transparency and equity, discussed in these cases, are collected in Table 12, and compared graphically in Chart 1. In all cases both have low scores out of 10, averaging 3.00 and 4.33 respectively. However, given the obscure nature of the practices, the level of equitable treatment received by local historical interests is somewhat more than expected.

In the main transparency and equity seem governed by negotiation, the nature of which necessarily inclines to covert behaviour.

| 6 English Cases | | |
|-----------------|--------------|--------|
| Case | Transparency | Equity |
| E-01 | 4 | 5 |
| E-02 | 3 | 6 |
| E-05 | 4 | 7 |
| E-07 | 4 | 1 |
| E-08 | 2 | 3 |
| E-10 | 1 | 4 |
| Total | 18 | 26 |
| Ave | 3.00 | 4.33 |

Table 12 Transparency & Equity Indicators

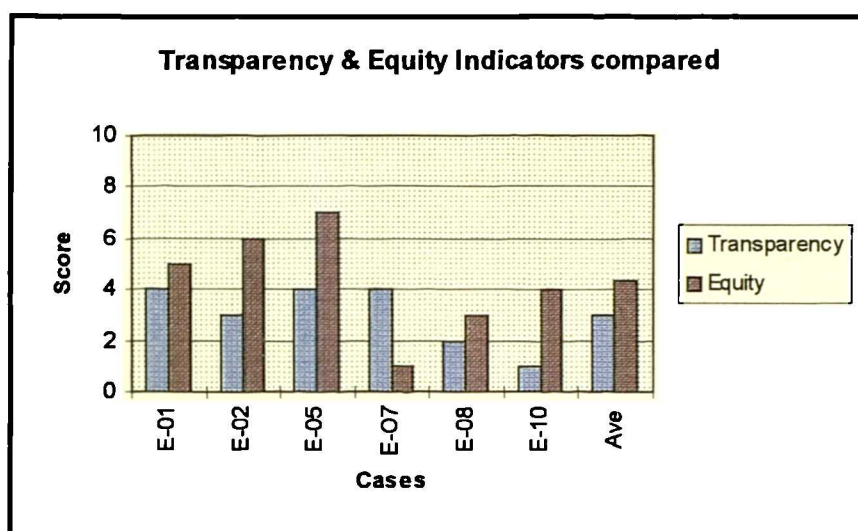


Chart 1 Transparency & Equity Indicators compared

The European Mainland

- Czech Republic, France, Germany, Hungary, Italy, Netherlands -

This brief chapter introduces those parts of the research project conducted in four European Union countries and, taking advantage of unusual opportunities arising during the course of these (Ch. 4), two countries from the former Easter Bloc. It also addresses those elements and findings common to chapters 7-11 which detail and discuss the case studies conducted in these countries.

6.1 Approaches to development control

Although a consideration of criminal and civil law is beyond the terms of this thesis, once mainland field work commenced the influence of judicial customs and practices on development control became increasingly apparent. While Chapter 3 provided a basic appreciation of the differences between English and Continental approaches to justice, to help appreciate and interpret the case material which follows, it is felt desirable to revisit this.

6.1.1 *'Judgement' -v- 'Administration'*

Shaped by 'common law', in England the judiciary adopts an adversarial approach to the discovery of facts and a mediative role toward their importance. In contrast, mainland European traditions seem rooted in judicial inquest to establish facts and the judicial application of codified regulation toward their importance. English justice depends on the skill of (legal) adversaries to defeat the arguments of their opponents and then, when passing sentence or making an award, upon the mercy of the court (judge) to mediate between the facts uncovered. Mainland justice appears to rely upon the abilities of one or more judges to determine impartially the facts through questioning, the assessment of these facts against pre-determined, codified standards of correctness, and the unbiased award of the same judge/s in strict conformity with the same codes. Such justice is historically predetermined and then administered (3.4). In contrast the English court, which is remote from enquiry, exercises independent, contemporary discretion and 'judgement', albeit subject to statute and superior precedent (3.4).

Supplementing these systems, it seems that in many countries real attempts are made to resolve, for example, commercial matters via hard bargaining between opposing parties and their legal advisors. In this, while legal 'rules' may provide guidance over procedure and admissibility of facts, the costs and uncertainty of 'going to court' may exercise a more coercive pressure to reach settlement¹¹³.

¹¹³ This suggests other related areas of investigation, for instance the various country traditions of law.

The importance of this background for development control is twofold. First, many countries have developed experience and expertise in settling commercial differences between parties via 'extra-legal' negotiation. Thus, as Jowell (1977) points out, in many countries it has become "...*natural for parties to prefer a negotiated solution rather than one based on fixed and immutable criteria, if the negotiation avoids the zero-sum possibilities of the judicial model.*" Second, continental systems appear to lack both the mechanisms for, and the experience of, mediation in dispute settlement. In theory they have no need of them, especially where the development of land is involved. The matter is certain. Land is either planned for development or it is not, with its clear use being allocated in the plan. In contrast the English system is inherently uncertain, with notionally all land being developable unless 'material' reasons, including planning policies, exist to prevent this. Thus in England many elements for dispute are built into permit applications, with any and every projected use able to be applied for and argued over.

6.1.2 Different routes to 'equity'

The significance of these observations for the research now becomes clear. As will be recalled (3.8), in England most development applications are, in effect, individually subjected to "... *an exercise in detailed development plan preparation.*" (Keeble 1983,107,8). This means that, as is evident in Chapter 5, such transparency and equity as exists under the English system would seem to owe much to that country's corps of professionally qualified planning officers. In effect, it is they who weigh, balance and 'judge' which issues and interests are 'material' in determining each individual application for permission to develop (Ch.5).

However, mainland Europe has no similar cadre. In theory the dispensation of pre-determined plan based decisions there, obviates the need for this. Municipalities usually provide infrastructure and other works to service land which has supposedly been planned impartially by legally authorised engineers or architects. Applications are made for a combined building works and land-use conversion permit. They are made by similarly authorised members of the same professions. Reliance that applications will conform to plans and other 'rules' (2.1) is placed on them. Checking that this is so is an impartial, technical matter of administration, carried out by officers in technical service departments. No assessment of planning issues, in the English sense, is involved. Transparency *is due process*, while equity depends on non-judgemental, non-discretionary, impartial *conformance* with the 'rules'(Ch.2,3,). Permits are only issued by these technical officers if such conformance is the case (Ch.3).

But, the hypothesis argues (4.1), because mainland permit development decisions do not follow the 'rules', planning and development control systems fail to deliver the protections promised and are neither legitimate, transparent, nor equitable. However, since mainland records must show that they do 'conform', the research could only determine whether alternative land use destinations had been

approved after case selection and the start of investigation.

Theoretically, where departments concerned with planning existed¹¹⁴, these should have had no functional contact with either the application or, notionally, the technical office. Accordingly, they should not have been involved in development control. Likewise, except in checking for technical conformance, neither should the technical office. They had no need to be. Since in theory it should only be necessary to *administer* legally binding plans, the techno-professional discretionary judgement of the development control function, as known and perceived in England, does not exist.

6.2 Case selection

Cases were chosen by individual RA's, according to their interests, helped by municipal officers (see Ch.4 & 5), from the available range of commercial, industrial, leisure, residential and shopping projects, with a 'mixed' category added, as necessitated by the Pilot Study findings..



Illustration 1 *Lens eye view of a Continental wall plan, showing hand written records of permits*

As will be recalled (Ch.4,5), in England, after selecting qualifying cases, access to each development control system was traced through the application's submission and relevant files. Each application was then tracked backwards, to examine site history and the emergence of the development idea, and forwards to the decision and sometimes beyond. In all countries this provided the first great contrast with English practice. No 'lists', computerised as in England, or otherwise, were available on the

¹¹⁴ In smaller towns and the Central European countries it is sometimes difficult to differentiate between building/technical and planning/architectural functions as these may be combined under single department head. According to his/her discipline (engineer, architect) the internal perceived function may differ.

mainland.

Instead, the predominant form of record was the legal plan, usually wall mounted, upon which were hand written permission numbers relating to each parcel of ground, as shown by the black markings on Illustration 1, p.118. This 'lens-eye' view enlarges these somewhat to make them more visible. Non conforming applications could not be traced. As suspected (Ch.2,3) only conformance was recognised. Coupled with the disparate interests of RA's informing their choice of case, this made the task of case selection even more random. Additionally, officials often seemed constrained to direct attention away from possibly sensitive cases. Behind a facade of willing co-operation, a wariness of 'snoopers' could often be detected. However, this situation did have a positive attribute. It meant that it was impossible to select cases because they supported the hypothesis. To the contrary, since theoretically permissions could not be given without conformance to the plan, superficially they all falsified it.

This raises four points, bearing upon the hypothesis and the research, which need to be emphasised here. First, because continental records must show that permits conform to the 'rules', there was no question of cases being selected because they were likely to supported the hypothesis. Second, because it might damage their personal interests and position, the research placed pressure on those in authority to conceal anything which was not strictly in accordance with the 'rules', for example by withholding files and other information. As noted above, this occurred on several occasions in different countries. Third, as already inferred, this meant that it was only possible to test the hypothesis via 'conforming' cases. Fourth, this implies that any findings which support the hypothesis or indeed show any departures from the 'rules' may have significance far in excess of their statistical relevance.

There is a further consideration. In many respects, if the hypothesis were to be falsified one might expect the findings from each case to differ widely, each reflecting what must be a wide range of policy and other considerations addressed by pre-determined plans. Conversely, one condition of verification could be a high degree of similarity between case findings.

6.3 Caveats, reporting, consideration and analysis

The allocation and analysis of qualitative data is necessarily a subjective exercise. It might well be treated differently by another researcher. However, by involving individual members of the multi-disciplinary research team with the preliminary field analysis, their beliefs in and familiarity with their own country's systems provided alternative perspectives to those of the Researcher. Both views helped mutually to temper potential bias (Ch.4). Additionally, by the nature of the qualitative research undertaken, the data is, perforce, incomplete. Because it was limited to development control, it is possible that all relevant files were not examined and/or that many of the issues raised were addressed elsewhere. It may also evidence some inconsistency, reflecting variation in the different views, memories and perspectives of informants.

Following the same formats and principles established in Chapters 4 & 5, chapters 7-10 present 17 studies of major developments in the Netherlands, Germany, Italy and France, this being their order of investigation. As with the English cases, four tools are used to collect, synthesise and summarise in text analyses and comparisons in order to examine these assertions in each country considered. These are the decision process models, decision matrixes, decision factor rankings, and transparency /equity indicators. Construction, scoring, weighting and ranking of these, as appropriate, is also the same as for the English cases (4.3). Attributes are included simply on the basis that they appear to have been considered, or be present, in the specific case referred to. Apart from the tables of 'ranked factors' no weightings are used. Although local terminology may have distinct meaning with no exact English counterpart, where possible the nearest English equivalent is given to assist flow and comprehension. Such terms are collected in the Glossary for ease of ongoing present and future reference.

As provisioned (4.2.4), the English cases are used to 'bench mark' these considerations within each Chapter, with overall comparisons between country analyses being discussed in Chapter 12. Where considered particularly appropriate, sketch plans of case sites are provided, as an aid to comprehension. Each case provides basic stage 1 and 2 analyses, with the 3rd level used to summarise each country (4.3). Repeated for the Central European countries in Chapter 11, the process is continued in chapters 12-16, which synthesise all findings in order to discuss the 4th stage of analysis - the consideration of what social conceptions informed the process and theorisation about their relationships.

As will have been noted, the English research findings reported in chapter 5 support those of Davies (1986) who, enquiring into the relationship between English development control decisions and plans, found:-

- a vast substructure of implicit and semi-formalised criteria in use to guide development control decisions, much of it outside any basis in a plan, and some of it not available for either public or political scrutiny.
- that weak legal links between plan and regulatory decision, and the discretion available to those making development control decisions, allows an easy drift from a 'plan led' system to a 'project-led' one.

As to the first of these, chapters 7-11 evidence similarity between English and Continental systems. However, the theoretically rigid legal links between continental plans and decisions described by Davies *et al* (1989b) appear to work rather less satisfactorily in practice than those in England with which Davies' earlier work (1986), noted above, found fault. Indeed, as will be seen in the following pages, mainland systems would seem to be very much 'project led'.

As in the last chapter, the text of the chapters which follow are illuminated with informant quotations. In the context of this research, these, it is suggested, carry a great deal more weight than mere anecdotal accounts. They represent the informed opinions of 'expert witnesses', whether qualified by professional calling or experience. Whatever else, they would carry great weight as evidence in an English Court. Accordingly, they are seen as at least a relevant and material consideration, helping to fix the empirical evidence into context.

The Netherlands

The Netherlands was not united until the beginning of the early 1800's and regional differences remain strong. Culturally, the Dutch consider it inappropriate to attract attention and complex webs of formal and informal 'rules' are used to facilitate anonymity¹¹⁵. Caution, if not antagonism, is often apparent between north and south, and local autonomy is often fiercely defended. Although the Dutch have traditionally had a great respect for rules, which are seen as providing solutions to problems, there is nevertheless a tendency to ignore them unless positively enforced¹¹⁶. As van Gunsteren (1976) notes, "... *administrative discretion is essential for the efficient and effective operation of the planning system*".

In the Netherlands the Mayor (Bourgemeister) is appointed by the Crown. The appointment is a professional career post. It enjoys wide powers and Mayors, often appointed for their special local knowledge, are keen to show good results. They play a sort of dual role, on the one hand being the representative eyes and ears of the Crown/Government and on the other Chairing meetings of members and Aldermen (Wethouders), who notionally have equal status. As with other senior politicians and officers, the pay of these politicians is linked to the size of their city (NG/1).

Until the early to mid 1980's cities appear to have enjoyed access to open ended subsidies. They had no obligation to grow and some were forbidden to do so. Competition for funds meant competing on weaknesses, i.e. the more disadvantaged a city could prove itself to be, the greater the financial support it could attract¹¹⁷. But enquiries into public housing provision showed system abuse and corruption. Since LA's had no risk they had little interest in controlling finances or related outcomes. Crying 'enough', central government changed the law, set budget constraints, and required LA's to share development risks with them. As decentralisation measures took hold cities began to focus on their strengths to attract employment and strengthen local economies. From roughly 1982 to 1986 their objective became growth, 'city marketing' gained sway. Today many cities target quality, full employment, tourism and hotels. With provincial government abolished in 1992, the focus for central government funds progressively moved from city to region (AvdV; N-gen/5; N-gen/6).

¹¹⁵ van der Valk, 1992, personal discussion, see also Faludi (1987) and Needham (1982; 1993).

¹¹⁶ Discussions with Prof. Van der Valk and W. Kort Alles, 1992/3

¹¹⁷ see Lieden Oxford study (Thomas et al. 1983a)

Dutch planning legislation is rooted in land recovery - pumping water, dikes, dams, sluices, etc.- giving it an infrastructural approach, with pre-determined, logical plans and rules intended to hold appropriate answers. If it were not for the system of high dikes, around 50% of the Netherlands would disappear under water, displacing 10 million people (70% of the population). An important duty of government is land preparation, raising the level of this with sand and installing appropriate infrastructure. Accordingly the convention has become established under which municipal land departments, in co-operation with planning departments, act as producers of building sites, buying in land, preparing it, and selling or leasing it on in smaller parcels to individual building developers.

In the 19th. century, as canals became increasingly polluted, public health concerns were embraced by planning legislation. The 1901 Housing Act introduced eminent domain and expropriation powers¹¹⁸ for housing land. These were extended to most other land in the mid 1960's, but are not exercisable if owners can show that they can carry out development themselves¹¹⁹. The Physical Planning Act is a processing act, requiring LA's to make a land allocation 'structure plan' (equating to UK local development plan) every 10 years. In reality they are hardly ever produced and even rolling reviews are more notional than real. Many have not been updated since before the war and some even go back to original 1901 Act plans. In old, central urban areas there may be no plans at all. Dutch planners originally came from the ranks of engineers and architects, although the legal profession had a strong input. However, from the early 1960's social scientists began increasingly to intervene, borrowing ideas of *strategic planning* from the UK. Conditioned by a social engineering approach to planning, by the end of the 80's they had effectively taken over as leaders of the planning profession. Until 1985 there could only be one, legal, plan. Then the minister determined that two plans - a global and a detailed development plan - should be permitted, making it possible by *de-facto* deregulation, not law, for a city to refer to both. This introduced flexibility but created problems and planning criteria for items not capable of being specified in regulations, may not be fully addressed (AvdV, 1992; H-gen/5)

Transparency

Q. How transparent is the whole procedure, really?

A. *It is transparent for those Dutch who are in the development business. But not for the people. There are lots of little tricks used to mislead the people. Planning is a ritual. Lots of reports, publications, etc. BUT it's all whitewash, clouding things from view. This is because of the image of democracy - the need to appear to be democratic in the procedures. Trying to fix who has responsibility is difficult. It is always possible to shift responsibility to someone else. It is all very unclear. An officer will say that, say, the Mayor was responsible, the Mayor that it was the Province, the Province that it was the Government Minister. But the Minister says he knows nothing about it, it's the first time he's heard of it. So the Province says that was because they were forced to let the municipality do something because they had not received guidance from the Minister, and that, even though he didn't know about the case, it was really his fault etc.. Decisions are just the same. Very unclear who takes them.*

Interview with a past Chairman of Dutch Architects Association, 1992.

¹¹⁸ Expropriation or compulsory purchase takes 'too long' - 2 to 4 years. Pre-emption powers are also available but not used much (KG, housing & planning researcher 1/03/93)

¹¹⁹ Interview with Prof. Arnold van der Valk, 1/12/92 (AvdV, 1993).

Stemming from the 1901 Housing Act, in the view of a national inspector of physical planning, the whole planning system remains geared to housing¹²⁰ with "... industrialised house-building techniques (having) created monster companies. This has led to regimentation of design and estate layout. ... No market exists in housing, since the only customers are the housing corporations NOT the occupiers. They have to put up with what they get and are never consulted on what they might want. The sole criteria is price." In the view of another informant (H-gen/5)¹²¹, regulations are based on ideology not realism, whilst plans are conservation based and have no flexibility.

Selected and given pseudonyms by four Dutch RA's, the cases investigated (6.3) with their help are:-

| Case | Dev. Type | Description | Site Type | Decision |
|------|------------|----------------------------|------------|--------------|
| N-01 | Mixed | 152 flats, 4 office blocks | Greenfield | Change use |
| N-02 | Commercial | Office block | Greenfield | Change use |
| N-03 | Leisure | Hotel | Urban | Exceed rules |
| N-04 | Industrial | Hazardous storage | Redevelop | No plan |
| N-05 | Mixed | Retail, offices, flats | Urban | Change plan |

7.1 The 'Meer en Beek' development, Steenhuizen (Case N-01)

Meer en Beek is a horticultural area on the periphery of Steenhuizen, a large town with a long town planning tradition. To provide sufficient housing land to meet growth forecasts they are forced to look at peripheral areas. This site forms part of a much larger area being comprehensively developed by a number of firms in conjunction with the municipality.

DETAILS¹²² - Case N-01

| | | | |
|---------------|---|----------------|--|
| Site area: | Not given | Site Type: | Green field |
| Dev. Type: | Mixed | Location: | Town periphery |
| Planned use: | Horticulture | Policy use: | None evident |
| Actual use: | Horticulture | Outcome: | Use changed to mixed residential |
| Project idea: | Major scheme 1982 | Application: | 14/01/92 |
| Decision/s: | Approved | Decision type: | Policy |
| Actors: | Housing / Building heads, lease-holders, politician, director of land owners, project manager, developer, | Agencies: | Statutory consultants, Province, council, land company, agriculture service, |

Time diagram - Case N-01

| | | | | | | | | | | | | | |
|-----------------|-------------|------------------|-------------------|---------------------|------------------|------------------|-------------------|---------------------------------|--------------------|-----------------|-----------------------|---|----|
| 1980 | 82 | 83 | 84 | 85 | 86 | 87 | 88 | 90 | 91 | 92 | 93 | 94 | 95 |
| / | / | / | / | / | / | / | / | / | / | / | / | / | / |
| Pre-negotiation | Investigate | Devise criteria | Legal frame-work | New Structure plan | Expropria-tion | Province approve | Art. 19 procedure | National housing policy changed | Crown part approve | Make new B-plan | Implement development | | |
| | | Feasibility work | Arrange with dev. | Global plan adopted | plan negotiation | Appeal to Crown | | | | | | Horticulturists re-locate or cease business | |

Synopsis - Case N-01

Zoned for horticulture, and owned by the municipality, the land was leased to and occupied by several growers who had built major greenhouse and other horticultural installations. During the late 1970's and

¹²⁰ Interview with national inspector of physical planning, 16/12/92 (H-gen/4).

¹²¹ Interview with a past Chairman of the 'Bund voor Nederlandse Architecten' 20/1/93 (H-gen/5)

¹²² To recap terms see glossary

early 80's economic pressures pushed them to expand and improve their businesses, for which they sought assistance from the municipality. Initial investigations and several meetings involving the growers, the municipal land company, and the planning department during 1982, resulted in the re-zoning alternative. In part this suited some of the growers, facilitating early retirement or advantageous re-location. Confronted by 'flight from the city' and losing tax income the town wanted more housing land anyway. In 1983 a financial & planning feasibility study of this idea was conducted resulting in a new structure plan being adopted in 1985.

However, despite expropriation powers compensation costs were high. In the same year, central government voted extra subsidies and in 1986 a new 'global' B-plan (*Bestemmingsplan*, the legally binding local plan) for the area was made based on a sketch drawing produced by an Alderman ('philosophising in a bar'; H-01/4) and given as instructions to the DRO (planning department). Approved by the province in 1987, this faced appeal to the Crown who, in 1991, withheld approval on part - including the case site - until this could be protected from industrial/ traffic noise. During this delay negotiations for land acquisition continued, the owners acting as a group under the guidance of a councillor and the agricultural service.

Between 1986 and 1988 the project group appointed by the town opened talks with invited developers, working out optimum situations for them. One of these, Marktco, took this case site. Owned by a pension fund, Marktco had developed a special relationship with Steenhuizen over some 15 years, co-operating with the town effectively to cross subsidise risks between good and bad development sites. Because of this the project team were directed to negotiate with them. This prevented the best market price being realised and enabled Marktco to dictate housing mix to suit their perceptions of demand.

Although still subject to the appeal, because a new B-plan was in prospect, Marktco were able to use the Article 19¹²³ procedures and submit a building application. A change in national housing policy, favouring market led criteria, led to the number of units being reduced, increasing unit land costs. Faced with this and time pressures both Steenhuizen and Marktco agreed to proceed and, despite the Crown's decision which affected this site, a revised application was submitted in January 1992. In anticipation of the noise problem being resolved, permission was granted in November 1992 and was fully implemented during 1993.

Figure 24 Synopsis of case N-01 - The 'Meer en Beek' development, Steenhuizen

7.1.1 Issues and processes

Commercial viability is a constant theme of this case. From initial pressures on growers, through Steenhuizen's need for tax revenues and the need for extra subsidies, to Marktco's control of product mix and development proceeding, regardless of a Crown decision. At every stage it accompanies the long process of land use change. As Marktco's director volunteered *"We acknowledge that there is a chance that we got too much influence from this contract"*. Although, because of the site production role of Dutch municipalities, central government subsidies to the municipality were important, they are not necessarily key. Had subsidies not, in principle, been available to support the growers' businesses¹²⁴, then either new methods would have been found to improve growers' profitability, or they would have gone out of business and the land lain derelict or sold for best alternative use value. Assuming such use to have been housing, then without subsidy the price they received for it would have reflected costs of serviced site preparation. In turn this would have related to open market demand determining development mix. If the growers had continued viable businesses then, unless the value of housing land exceeded that for established greenhouses, they may not have sold and demand would have gone elsewhere, presumably following other 'city flight'. Thus a series of alternate housing lo-

¹²³ Artikel 19 permits applications to be considered if a new Bestemmingsplan (local plan) is under consideration. Permits can be given if the applications conform to the new B-plan, even if this is subsequently never approved or adopted.

¹²⁴ There may have been an element of subsidy transfer here. Subsidies to the nationally important horticulture sector did not have to be paid when the growers accepted disturbance compensation from the municipality.

cation scenarios can be envisaged involving different infrastructures, transport, development mix, alternate town expansions, industrial/commercial locations, etc. However, possibly because of the stable Dutch policy framework (Needham et al. 1991), none of these seem to have been considered.

Involving an abstruse network of actors, Dutch decision making is a most difficult process to pin down. In this case, driven by commercial imperatives, land use destination decisions seem to have happened at least partially by default. The task of Steenhuizen's land department was (and is) first to 'manufacture' sites and second to make a profit - or at least not make a loss - in doing so. The growers' plight offered them the opportunity. The politicians (and treasurers?) determined that there was a demand to be addressed but, since the municipality already owned the land, alternative and more suitable sites were not considered. Armed with such policy they formed a 'project group' with the planners, inviting in developers to negotiate their joint best interests. Once the idea got into the system, regardless of environmental limitations it progressively became reality. Thus, with the land use decision process seeming to be a mixture between the heuristic policy and negotiation models, the 'rules' seem to have proved more of a bargaining counter than a framework.

7.1.2 Practices - locating the decision and process

Both practices and processes may be seen as somewhat fluid over a long period of time. Steenhuizen was concerned to retain population and revenue and did so with the aid of public funds, possibly common practice in the Netherlands. Since part of the case site was developed for sale and part by private contractors, these public funds found their way into private pockets. This may be fairly standard practice but, given the overall policy shift, the practice of actually planning the land seems to have been directed, at least in part, by a politician as far as infrastructure was concerned, while developers with direct access to the planning system set the product mix. True, both were constrained within a framework of national policy and related subsidies, together with local policy objectives which, so far as these form part of 'rules' have, like technical building standards, some effect. But, driven by political and inter-linked commercial arrangements and considerations, 'rules' concerning the environment and related matters affecting the new inhabitants, e.g. noise, were blatantly ignored. In the words of the councillor, referring to the 'noise' problem, *"Environmental services¹²⁵ wanted to act 'important' while the whole process was in full swing. We, as politicians, laughed about their importance"*. Changes were made to achieve notional 'conformance', but the potential impacts were ignored. Thus, evidencing concern for the wider community (taxes), but a negotiated disregard for 'rules', the case may be seen as spreading across the upper area of segments 'C' and 'D' on the decision matrix (Figure 31, p.140). The use of 'rules' to organise and protect the corporatist dealings evidenced here, provides little transparency. Even to argue that they occurred at the direction of politicians does not alter this. It scores 2. Equity fares somewhat better, but mainly because the growers' historical interests were effectively 'bought off'. This says more for markets and commerce than it

¹²⁵ The municipal department dealing with environmental services and environmental control.

does for 'rules'. Indeed, these seem incapable of protecting the interests of those who will live at Meer en Beek in the future. Because of this a score for equity of 5 seems appropriate.

7.2 The story of Luchtkastel in the Efteling (Case N-02)

Efteling is an important Dutch town. It serves as a regional centre and exercises important influence on both provincial and national government. Like other Dutch towns, it is jealous of its autonomy. Two important elements in this story are mandate and decentralisation. The site owners, Cityland (the municipal land company), are mandated by Efteling to decide how to treat sites of 4 Ha. or less. Whilst formally city plans are made by the DRO, these may be made privately and passed to the DRO to produce the legal framework (see case N-01). As major land holders Cityland's large informal network includes architects, one of whom, Archie, has done much work for them over the years.

DETAILS - N-02

| | | | |
|----------------------|--|-----------------------|--|
| Site area: | <i>3.4 Ha.</i> | Site Type: | <i>Green field</i> |
| Dev. Type: | <i>Commercial</i> | Location: | <i>Peripheral</i> |
| Planned use: | <i>Agriculture & industry</i> | Policy use: | <i>None except mayors letter stressing speed</i> |
| Actual use: | <i>Vacant</i> | Outcome: | <i>Use changed</i> |
| Project idea: | <i>Owner 1989, Dev. 1990</i> | Application: | <i>27/07/90</i> |
| Decision/s: | <i>December 1992</i> | Decision type: | <i>Negotiated</i> |
| Actors: | <i>Land owner, developer building & planning heads private architect</i> | | |
| | <i>Municipality, Province, Aesthetics committee</i> | | |

Time diagram - Case N-02

| 1938 | 1987 | 88 | 89 | 90 | 91 | 92 | 93 | 94 |
|-------------------------------|-----------------------------|--|-------------------------------|--|---|--|------------------------------|----|
| / | / | / | / | / | / | / | / | / |
| Land zoned agric & industrial | By-pass road & inter-change | Owner thinks new use needed Private Architect makes sketches | Architect brings in developer | Contract to sell 1st applic'n not OK Aesthetics committee Art 19 envisaged | Revised applic'n National policy change | Bargaining with Province Art. 19 etc. agreed | Market collapsed Dev. delays | |

Synopsis - Case N-02

Still subject to the 1938 B-plan's industrial and agriculture zoning, the land in question was unused. However, it was located close to a public transport terminus and in 1987 a new bypass and nearby road interchange had altered its locational importance. It was now easily accessible from both the city and other towns. Accordingly, Cityland began to think how they could turn this to advantage.

One day in 1988 Archie was in Cityland's offices when the matter was being discussed. He made a point of being there quite often to make sure he knew what was going on and what work might be in prospect. He offered to produce appropriate plans for the site, formed a working relationship for the project with Cityland and, in 1989, introduced a prospective developer to add commercial inputs. Their joint ideas, sketched by Archie, were presented to the planning officer to consider the legal side of the proposals and produce an appropriate legal framework to facilitate an office development on the site. However, even after revision the proposal was not acceptable since the scheme did not conform to the B-plan.

Unwilling to lose the development opportunity, Cityland arranged for Article 19 to be used to overcome this problem with least delay. In early 1990, because the planning officer's new, unofficial, B-plan showed office development, Cityland contracted to lease the land to the developer subject to 2 conditions; first that they guaranteed permission would be given; second that when granted the developer would build the project. The developer now officially engaged Archie as the project architect, who lodged formal application for the pre-agreed project with the building department some months later. As part of their procedures the applica-

tion was presented to the aesthetics committee. Maybe because of the relative isolation of the project or perhaps because it was normal practice, they paid little attention to design. Instead this committee was used as a mediating forum for all those with a potential interest in the project.

Before the Art. 19 procedure could be got underway the developer sought changes, ostensibly for cost reasons. In 1991 Archie submitted revised drawings. Although totally departing from the original in shape, footprint, layout and appearance, since total volume was not altered this was allowed to replace the originals without the need for a new application or further, substantial, fee. Consultation procedures were repeated and effective approvals obtained, subject to minor technical amendments. By 1992 the way was cleared for the planning officer to send appropriate proposals to the Province to start the Art. 19 procedure.

But now a change was made in national policy for office locations and related car parking requirements, followed immediately by corresponding provincial policy. To maintain good relationships at both levels, Efteling implemented these immediately, necessitating a reduction in parking spaces at Luchtkasteel. Accordingly the Province refused to authorise the new B-plan and use of the Art. 19 procedures as not being in accordance with the new policy. Now, because Efteling had sought the Art. 19 route, which changed the plan for the whole area, this created problems for other buildings in the area also.

Cityland now faced major problems. As part of Efteling they were obliged to follow the new policy. But under the lease contract they had to support the application. Required to follow national, provincial and local policies in any new B-plan, the problem also confronted the planning officer. Informal meetings between owner, developer, Province and planning officer failed to persuade the developer to budge from insistence that the plan agreed with Cityland be permitted. If it were not, then his claim for damages against Cityland would be enormous. After subsequent high level political meetings within the Province and with Efteling, an unofficial exception was made on the grounds that Cityland and Efteling were one and the same.

However, during this time the market had also changed. Demand for offices had dropped sharply and the developer decided to try and slow down the permit process. Following provincial approval, the new B-plan had to be put out for public approval. Complaints about the B-plan could slow this down. The developer made them, complaining, for example, that text in the B-plan which gave exceptions to a number of companies (including itself) was too vague. After several months of further negotiation and adjustments the new B-plan and use of Art. 19 were cleared. Although the developer could still apply to the National Court with new complaints about the plan, the policy changes increased the site's value - it had more car parking space than any other building around. Talks were in hand with other developers to sell the site on at a profit.

Figure 25 Synopsis of case N-02 - 'Luchtkastel in the Efteling'

7.2.1 Issues and processes

Infrastructural change was clearly instrumental in causing an alternative land use to be considered. Notwithstanding the unfortunate timing of policy changes, once contemplated, Cityland, aided by Archie and the developer, determined the outcome. Such arrangements followed Cityland's common practice. Many schemes are handled in this way. To judge from the Dutch media¹²⁶, it also seems not unusual for municipalities or their land departments to guarantee the delivery of permits as part of some deal with developers. A degree of elite privilege seems attached to this, those closely connected with Cityland having apparently been able to negotiate deals with little or no competition. It was a corporatist problem. Archie got more work as his payoff for introducing the 'client' and played the 'rules' to his and his client's joint benefit, first getting their ideas accepted by the system then changing the design to suit commercial realities, and avoiding resubmission and additional fees. In all of this any consideration of aesthetics or 3rd party concerns became a mirage, the 'aesthetics committee' was used not to evaluate design but to mediate internal departmental interests in clearing the way for the

¹²⁶ For example Binnenlands Bestuur notes: "Corruption of Mayor and Aldermen in Rucphen" - 4/12/92; The national law on physical planning, including Art. 19, is not being followed - 27/11/92; Inappropriate procedures are used by L/A's for 'fast planning' - 30/10/92; An (obnoxious) factory is permitted next to a future housing development - 30/10/92.

use of Article 19 procedures. Here the planning officers role seems to have been not to plan, but to arbitrate such interests and manipulate 'rules' to adapt both plans and policies to suit Cityland's objectives. Delay caused the developers to find further ways to manipulate the 'rules' to avoid or defer liabilities until market conditions improved. Except for protracting the whole process, formal plans were of little consequence here, even the need to demonstrate conformance being pushed to one side. Although internal procedures all appeared to be followed, in themselves these illustrate the non existence of 'codified protection'¹²⁷. With the B-plan which provided this precluding development, policies played a major role. But the policy of giving Cityland a 'free hand' in determining site use, over-ruled all planning policies, unless one wishes to argue that 'policy' is to 'grow' via almost any form of development. Accordingly it is the negotiation model which seems best to categorise the decision process in this case, both within Efteling and between it, the developer and the Province (see networks in Figure 26, p.128), in seeking to implement Central Government policy .

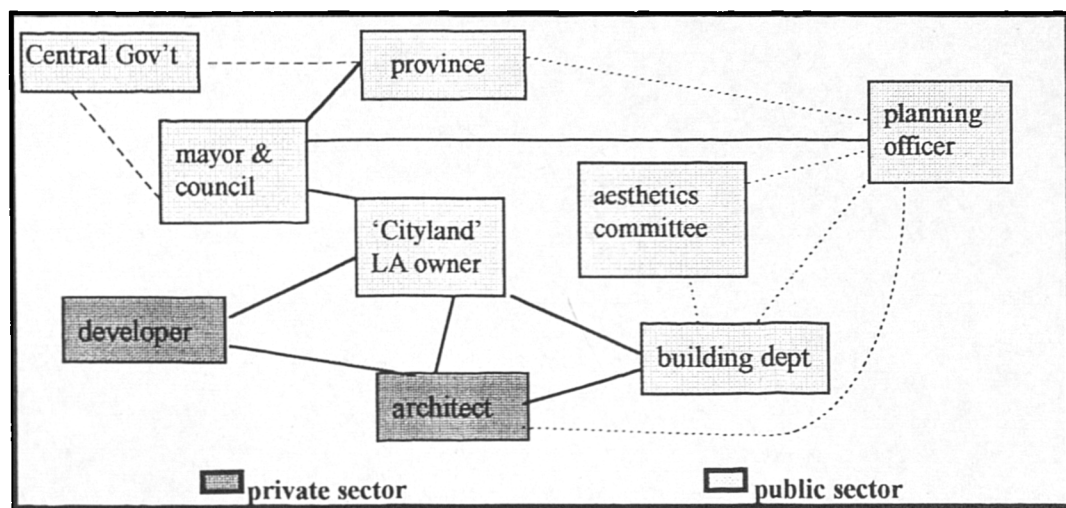


Figure 26 Actor Network, case N-02

7.2.2 Practices - locating the decision and process

The change in national policy not only exposed a major weakness in the rather cosy cross guarantee arrangements, it evidenced corporatism at work. In this, Cityland, Municipality and Province circumvented the 'rules' to protect officers, politicians and city, while Archie and the developer played games with the public sector to improve their own commercial position. The outcome was contrived, potentially deceiving the public that everything was done within the 'rules', while 'negotiations' to circumvent them potentially disadvantaged other local property owners¹²⁸. Even though Art. 19 was supposed to provide the 'quick route' to approval, the two years plus taken to bring the permits forward was more than sufficient for significant market change to occur, emphasising the great impor-

¹²⁷ See Chapter 2 on the purposes of codification.

¹²⁸ This was not investigated beyond the facts stated. However, adjacent property owners could have been disadvantaged by design departures and increased mass. Furthermore the developer (and indirectly Cityland) were unfairly advantaged by the parking concessions. If, as some may argue, this reflects a standard Dutch development situation, then this implies that most, if not all, Dutch planning and development practice ignores (the revision of) development plans; addresses revision by waiting for, and responding co-operatively

tance which this has in any scheme. Infrastructural change created market opportunity. Temporarily lost through delay, the 'rule' structure potentially gave this back by creating scarcity elsewhere. But it was only through hard commercial bargaining and political negotiation that this could be realised. The land use decision was effectively mandated to Cityland on the basis of which they had made binding contractual commitments. In consequence any interventions which interfered with these were destined to failure, unless severe penalties were paid. Potentially, such circumstances could also impact on viability for any developer entering any contract with any municipal land company. Although lip-service was paid to the decision framework provided by the 'rules', which therefore imposed some nominal checks and balances, in discharging its brief to operate profitably Cityland subverted any possibility that 'rules' could have been plied other than for commercial gain¹²⁹. In doing so it had no obligation to consider other locales or other local interests, neither did it appear to do so. Finally, it was the commercial power of the developer in refusing to accept the revised parking policies which determined the final decision course, followed through with an ability to play the protest and appeals game to own advantage. It might be argued that the developer was seeking no more than 'equitable' treatment on the basis that contracts can or should not be changed retrospectively. But this emphasises the importance of having adequate resources to resist the impositions of authority, something often not within the grasp of many historical local interests in place. Although attempts were made to impose the 'rules', commercial power won, placing this decision to the bottom right of quadrant 'C'. To the uninformed observer, superficially it may seem that *due process* has been followed. But, behind this figment, intrigue may have been at work; first to capitalise on vacant land by unofficially 'revising' the protective plan, second to overcome problems caused when new policies clashed with both new and old commitments. Unseen it seems to have ignored all interests save those of Cityland and the developer. In practice, transparency rates a nominal 1. But because, arguably, Cityland represented the City's (economic) interests, equity gains 3.

7.3 Hotel enlargement at Hoek en Meer (Case N-03)

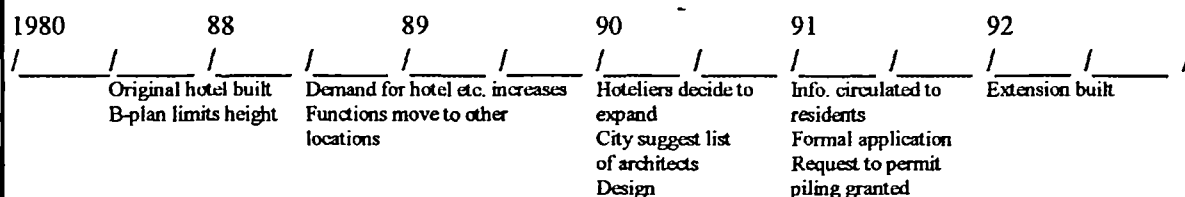
This is a simple but intriguing case. Hoek en Meer, a major commercial town, has expanded dramatically over the last 25 years. Its centre has been largely redeveloped and offers good shopping, restaurant and hotel facilities. But these are under demand pressure and, due to lack of facilities, many functions progressively move out of the town to other locations.

to. development proposals; and applies mischievous, deceitful behaviour in its development 'game'. Once decided, it is unlikely that the comments or objections of any 'outsiders' would influence any plan changes.

¹²⁹ This 'gain' may have been spread between city, developers, professionals, occupiers, and others party to the project. The development may even have helped other city 'development' policies. But the manner in which it came into being did not respect the 'rules' and those outside the project may not have benefited. Consequently, given that the local community, as neighbours, and the individual, with citizens rights, are supposed to be able to rely on these 'rules' to protect their interests, the case demonstrates a clear subversion of the system and a lack of fairness and justice.

DETAILS - case N-03

| | | | |
|----------------------|---|-----------------------|---|
| Site area: | <i>Project size 4,200 m²</i> | Site Type: | <i>Urban</i> |
| Dev. Type: | <i>Leisure - Hotel & restaurant</i> | Location: | <i>Central</i> |
| Planned use: | <i>Hotel etc. BUT size restricted</i> | Policy use: | <i>No change</i> |
| Actual use: | <i>Hotel</i> | Outcome: | <i>Change size restrictions</i> |
| Project idea: | <i>1990</i> | Application: | <i>Outline 25/01/91</i> |
| Decision/s: | <i>28/02/91 - part permit</i> | Decision type: | <i>Negotiated</i> |
| Actors: | <i>Chief planning officer, chief building officer, politician, architect, developer</i> | Agencies: | <i>Inhabitants committee, consultees, expert construction consultancies</i> |

Time diagram - case N-03**Synopsis - case N-03**

The existing hotel was built in the early '80's, the site being zoned in the B-plan for recreational and leisure purposes. When approached in 1990 by the hotel operators to consider extension, the municipality, concerned about loss of central area business, was keen to support the idea. Attracting functions back to the city centre was a major concern. It provided a short list of architects who senior politicians indicated could aid a 'very fast procedure'. The hotelier's commercial advisors recommended a 'hidden agenda' approach - do and agree whatever is necessary to get the basic permit first, then seek any changes required for the development afterwards.

Accordingly the initial designs of the architect selected, which involved part demolition and rebuilding of the existing hotel, reflected municipal preference for colour and materials. The media was harnessed to create favourable public opinion, and open political support was given to the investors. In early 1991 an official application was made, followed almost immediately by a request for a permit to allow piling works to commence. Although the procedures to grant the full permission were not yet granted, this was given on an 'own risk' basis. Pre-application discussions noted that the proposals took the building outside the B-plan rules, being both higher than and with front and rear building lines beyond, official limits. Article 19 could be used to get around this, but would involve the Province and take too long - even though it was the 'fast' route to obtain changes. Instead the Chief Planning Officer agreed to avoid this by 'interpreting' a series of building by-laws.

In May 1991 a conditional outline permit was granted and, on the basis of this, all internal and external consultees, including the aesthetics committee, gave approval for the detailed project. But the works commenced already indicated that the building was 'being carried out in a different way' from these drawings, and would be larger.

Believing that, via his copyright, he had control over what was built, before the permit was issued, the architect formally objected to permission being granted. The hotelier commenced legal action against him for breach of instructions and appointed a new architect, explaining to Hoek en Meer that changes were occasioned by financial demands and cost over-runs. Only now, alerted by this debacle, did the residents committee defend the B-plan by raising similar objection as the first architect. But their joint protest was challenged by politicians in support of the scheme. After further negotiation by the new architect, in mid 1991 formal permission was given for the amended structure. The building was completed in 1992.

Figure 27 Synopsis of case N-03 - Hotel enlargement at 'Hoek en Meer'

7.3.1 Issues and processes

Once again commercial concerns seem to dominate issues and direct processes. Concerned to protect town centre viability, municipal policy was not only to support hotel expansion, but to facilitate this

as quickly as possible. The availability of a short list of architects familiar with such fast tracking and able to work with the system, suggests this policy and approach was not unusual. The apparent ease with which the ruling political machine enlisted the media, supports this view. As witnessed by the late entry of objectors, it also introduces the issue of how the system 'manages' public opinion and of how relevant this really is. The early grant of permission to commence foundation piling works suggests the decision to approve was already taken, regardless of B-plan breaches inherent in the design. This notion is strengthened by the CPO's interpretation of by-laws to avoid Art. 19 and attendant Provincial involvement (which may have required consideration of nearby town and other interests - e.g. beneficiaries of the shift in function venues). Whatever the case, municipal attempts to speed the decision process evidenced an awareness of the commercial importance of time and timing (apparently lacking in Case N-02), whether or not altering and exceeding the original agreed designs evidences commercial greed or excess. Likewise early advice to the developers to adopt a hidden agenda and the early start of works on what seems to be a different plan, imply manipulation of the system for financial gain. With commercial and policy objectives apparently coinciding, the developers could be confident. No doubt they could also rely on the virtual certainty that, as discovered in case N-01, once built not even the Crown would order demolition. Further weight is lent to this notion by the political voices raised in support of the development, regardless of regulatory breaches, and by the law which places obligation on local authorities to 'get things done'¹³⁰. Plans and regulations protected interests, but policy favoured changes which affected and probably neglected to consider these properly or at all

7.3.2 Practices - locating the decision and process

The rulers of Hoek en Meer ran a well oiled machine. Policy adapted to commercial realities and allowed projects favourable to these to be negotiated and implemented. A 'mutual accommodation' appears to have delivered the town's full backing. In this case, the decision process drew on and drew in whatever instruments favoured the speedy implementation of current policy. Acting almost as if the town were the owner developers themselves, this process reflected a mix of the heuristic policy and negotiation models.

Hoek en Meer's single minded pursuit of commercially orientated policy obliged local officers to carry out political directives, even to the extent of finding ways to 'bend' or circumvent the 'rules'. Although providing a framework for the consideration of applications it would seem that these had little relevance, either in letter or spirit, to eventual decisions which, it seems, negotiated around the limited checks and balances imposed. This locates the decision to the right of centre in quadrant 'C'. Allowing that ruling local government interests in promoting commerce may have been for the general public good, this nevertheless took little or no account of historic, local community interests in place, giving an equity rating of 3.. The local community's late entry may have owed something to lack of transparency and complication in the system and the difficulty for any outsider to understand it. The

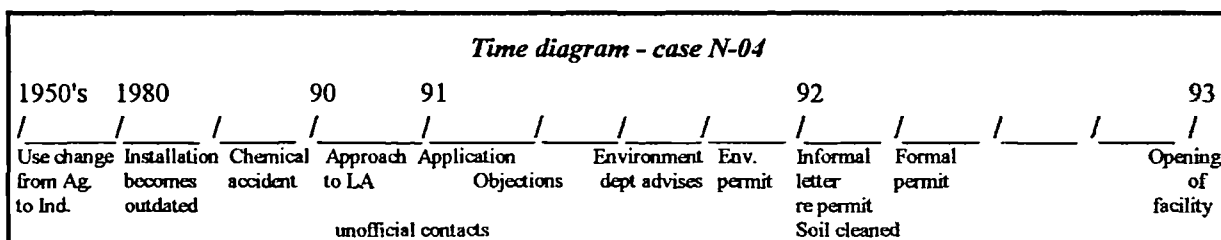
¹³⁰Faludi A., personal communication, debriefing seminar, Amsterdam, March 1993.

'corporatist game' is well illustrated. Combined with the way in which the investor/ developer 'played the game', backed by the commercial power which enabled them to do so, this places the final location of the decision toward the bottom of this sector. But because the local community eventually cottoned on to what was happening, and claimed some voice via the 'rules', transparency also scores 3.

7.4 Chemical storage at Nieuwe Haven (Case N-04)

In the late 1980's the Sandoz industrial accident spilled huge quantities of toxic chemicals into the Rhine. The response was a sudden acceleration of the formerly steady process of tightening preventative regulations. The Dutch government designed an entirely new environmental law but, through lack of sufficient safe storage facilities, many authorities faced severe problems with enforcing this. This lack also meant that hazardous materials were placed in vessels along roadsides and waterways everywhere, with apparently little policing of their safety or maintenance.

| <i>DETAILS - case N-04</i> | | | |
|----------------------------|--|-----------------------|--|
| Site area: | <i>14.5 Ha.</i> | Site Type: | <i>Redevelopment for hazardous waste storage</i> |
| Dev. Type: | <i>Industrial</i> | Location: | <i>Suburban periphery</i> |
| Planned use: | <i>No B-plan</i> | Policy use: | <i>None</i> |
| Actual use: | <i>Industrial storage</i> | Outcome: | <i>Use changed</i> |
| Project idea: | <i>mid 1990</i> | Application: | <i>5/2/91</i> |
| Decision/s: | <i>6/4/92</i> | Decision type: | <i>Closest = plan led, although no plan applies</i> |
| Actors: | <i>Developer, Chief Building Officer, Cityland</i> | Agencies: | <i>Developer's parent and related subsidiaries Suburban council, ,</i> |



| <i>Synopsis - case N-04</i> | |
|---|--|
| <p>Accessible by rail, road and water, the site adjoined the highway, some 200 metres on the other side of which the city suburbs commenced. Administratively Nieuwe Haven, a small community of about 5,000 people, was part of this larger urban area. Surrounded by industrial emplacements, their only access crossed the railway line which, for around 15 hours per day, was in heavy use. Because of the danger of accidents as well as severe air pollution, there was an embargo on enlarging the community, which then faced an ageing population, slow local economic decline, and suffered attendant reduction in services.</p> <p>Since the 1950's the site had been used for storing industrial chemicals, latterly by the applicants, but the facility had become outdated and only partly used. Although there was no Bestemmingsplan covering the site, parts of the planning legislation had been 'withdrawn'¹³¹. In January 1990 the owners approached the building officer to discuss redevelopment for the storage of hazardous waste.</p> <p>Now whilst the city had no formal policy for the area, general policy - and instruction to officials - was to present as few obstacles for any proposal involving economic activity, as possible. Because no B-plan existed and the proposal involved redevelopment, the building officer decided that no reference to the planning department or planning laws was needed¹³², even though whatever current use-rights the developer's may</p> | |

¹³¹No one was able to detail these or to identify who had been responsible for their withdrawal nor has any English language text which identifies or explains the circumstances and procedures for this, been found.

¹³²During interview he was unable to provide any authority for such decision, or specify how the need for or validity of the planning regulations was determined.

have possessed would seem to have been exceeded by the admittedly 'huge and exceptional development'. However, the application was to be subject only to technical and statutory consultee scrutiny. Recognising the costs to the applicants of satisfying resultant critiques, almost 3 months before the permit was issued he felt justified in giving them informal confirmation that the proposal was acceptable. This allowed works to commence.

This entire process was handled by the municipal institutions - the building department, land department, environmental control, and fire department. Politicians seem to have followed their advice without comment. With planning regulations deemed irrelevant, the environmental department played a major role. For them fire was the ultimate hazard, displacing explosion, radiation, toxic dumping and leaking vessels. Whilst admittedly unlawful to give precedence to any application, they established a special team, including a lawyer, to handle the anticipated huge volume of work involved.

As advisor to several companies, Nieuwe Haven's president gained early information on the proposals. In consequence, when formal notification was received from the building department, the community was well prepared with their objections and campaign. Officers were taken aback by the strength and force of protest, which centred around the nuisance law (*Hirum Wet*). Explanations that the project was a 'clear improvement' were rejected. Residents fought the 'design decision' and the final permit¹³³, mounting petitions, gaining press, radio and TV coverage, and finally protesting to the National Court. It refused to consider their objections¹³⁴. This refusal helped speed development. Had this court agreed to hear the complaint, all works would have had to have been stopped, pending their determination, for perhaps several years.

Only the first phase of the project was built due to low demand.

Figure 28 Synopsis case N-04 Chemical storage at 'Nieuwe Haven'

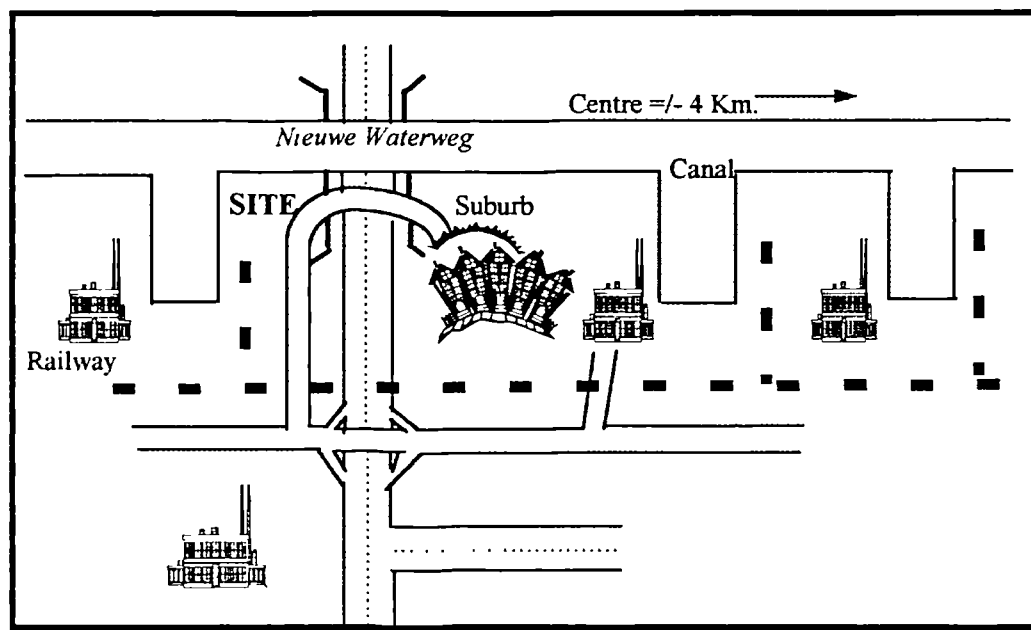


Figure 29 Nieuwe Haven chemical storage

7.4.1 Issues and processes

Several disparate issues emerge from this case. Perhaps first to be raised should be the peculiar 'withdrawal' of the area from any form of planning control. One might expect it to need a political, planning, or 'vital national interest' decision to determine that land should not be subject to planning

¹³³ None of the files to which access was given evidence any objections or any of this protest. Apparently since these centred on the nuisance law these were handled by the environmental department, the building office having nothing to do with them. However, although the environment department files were not examined, it was not readily apparent that any form of environmental appraisal procedure was involved.

¹³⁴ Presumably since no evidence was advanced of maladministration. Apart from those specifically involved in the process and procedures, it seems that insufficient was then (and still is) generally known about the import of the WMB - the Law on Environmental Issues - which, like the WRO (spatial planning law) links everything together.

control. Yet it was not possible to discover how, when or by who's authority this 'withdrawal' occurred, even though the effect was quite remarkable. Had planning control been in force then other avenues open to the protesters would have included, for example, the potential need for a B-plan¹³⁵, whether hazardous wastes should be included in this so close to a residential area, architectural quality, and so on. If they could have argued for a B-plan, then they could have sought to restrict existing use within current parameters, or to change this on 'bad neighbour' locational grounds, and for other area improvements. Chance, and the manner in which a notable accident intensifies legislation, engenders political response to public alarm, and opens up commercial opportunities in response to regulation, also figured highly. But, if the operators and other commentators are to be believed, lack of back-up legislation requiring firms to use the type of high quality facility provided, resulted in its effective commercial failure, with only the first phase being built. The suburban president's acknowledgement that, both environmentally and economically, the development was, as claimed by the officers, very good, suggests the local community had hidden agenda's of their own. For example, by capitalising on a project of wide public concern Nieuwe Haven' may have hoped to gain other concessions from city government, like easing neighbourhood decline. Finally, whilst everything may have been conducted completely legally, the apparent willingness of officials to act in contravention of the law when they considered such action to be in the wider public interest, is notable. No plan existed to be followed. No specific policy was in force for the site. No evident discussion or negotiation took place regarding the land's redevelopment use. Yet decisions were both interpretative and procedural, driven and made by the system which, somehow, managed to avoid most of the issues raised above. Regulation's role seems to have been narrowly interpreted as being to avoid adverse costs, rather than local community protection. Consequently, though it might be argued that the project was an improvement on past uses, the opportunity to air and test alternative views was denied to local citizens. None of the heuristic models (4.3.1) seems appropriate. However, if the codified regulatory requirements which substitute in the absence of a plan are assumed¹³⁶ to apply, then the closest approximation seems to be the plan, i.e. 'rule', driven model.

7.4.2 Practices - locating the decision and process

Commercial response, both to legislation and improved use of a deteriorating asset, prompted the application. General policy to minimise or remove bureaucratic hindrance to economic projects and environmental legislation aimed at the wider public interest, guided officer interpretation of how it should be handled. They place the decision in the lower part of the decision matrix. Conflict avoidance and the ability to let the system rule the decisions probably enabled the politicians to stay in the

¹³⁵ Small developments in urban areas where no B-plan exists are generally subject to regulations requiring them to observe the character and fabric of the locality and neighbouring sites. However, given the character of this location, the change in the nature of the use (chemicals to hazardous waste), the surface area of the land involved, and the proximity of the settlement, arguably a B-plan should have been provided.

¹³⁶ This has to be assumed because of the withdrawal of planning control. See also footnotes 131, 132, 133, 134.

background and ignore local interests. But the decision observed the 'rules', even if these were inappropriate and had previously been tampered with, making the point of *system access* its correct horizontal matrix location. However, the partial withdrawal of the 'rules' meant that the technical officers' conduct was to a large degree removed from public scrutiny. The fact that the exceptional nature and size of this case happened to uncover this, merely exposes what may be the tip of a further method of avoiding the 'rules'. Any transparency and regard for *due process* must be considered fortuitous and score only 3. Equity fares even worse. City policy openly preferred commercial interests and, effectively, was prepared to 'write off' the community although, reminiscent of Pattison's (1992; 1996) account of political and planning actions in East Durham, the implication is that this was at least *de facto* policy. Only because such preference must be presumed to be in the wider 'public interest' and the developer must also be accorded some rights, does this score 2.

7.5 Hoogoord's incomplete retail centre (Case N-05)

Hoogoord is known as 'a hard-working city'! Its municipal 'establishment' has been described as a professional institute familiar with the needs of the market place. The case concerns the deferred completion of a 1960's master plan, amending this via Art.19 to suit current conditions, and linking this with extension and refurbishment of a retail centre to meet increasing competition.

DETAILS - case N-05

| | | | |
|----------------------|---|-----------------------|--|
| Site area: | <i>Add 18,594m² floor space</i> | Site Type: | <i>Urban</i> |
| Dev. Type: | <i>Mixed shops & flats</i> | Location: | <i>Suburban centre</i> |
| Planned use: | <i>Commercial & roads</i> | Policy use: | <i>Expansion of centre + national policy</i> |
| Actual use: | <i>Retail</i> | Outcome: | <i>Use change via Art. 19.</i> |
| Project idea: | <i>1980's</i> | Application: | <i>20/02/92</i> |
| Decision/s: | <i>10/11/92</i> | Decision type: | <i>Plan and policy</i> |
| Actors: | <i>Developer, Planning & building dept. heads, mayor, aldermen,</i> | Agencies: | <i>Province, bank, council, shopkeepers,</i> |
| Informants: | <i>Building officer, Planning officer, Architect, Developer, Politician</i> | | |

Time diagram - case N-05

| 1948 | 61 | 72 | 82 | 85 | 89 | 90 | 91 | 92 |
|--------------------------|-----------------------------|------------------------------|----------------|------------------|----------------------------|---|---|---|
| B-plan zones site comm'l | Master plan allocates roads | New master plan & retail dev | Economy slowed | Economy improves | LA plan 102 flat extension | Traffic noise study Public display of plans Technical discussions | Application Technical discussions Province approves Art. 19 route chosen | Temp permit Noise negot'n Permit issued |

Synopsis - case N-05

In the early 1960's the municipal land department opened negotiations with several potential investors to develop suburban land zoned for commercial use in the 1948 B-plan. House building was in full swing in response to urgent post war demand and, to cope with transport pressures from growth in cars, a new master plan¹³⁷ was made, re-zoning the site for roads to service further urban expansion and for a district shopping centre. Based on pedestrian/traffic segregation and built above ground level parking, it had no ground floor entrance or out-facing advertising.

The successful developers, a subsidiary of a national bank who invested in property, persuaded the municipality of the commercial need for it not to be obscured by surrounding buildings during an establishment pe-

¹³⁷ i.e. a structure plan for the area which could encompass several B-plans, the only one's to have legal force.

riod of at least 10 years. To attract tenants, the developers established a retailers' association to maintain and promote the centre and took a leading role in this. It opened in 1972.

By the early 1980's Hoogoord wanted to complete the surrounding development in accordance with the master plan, which envisaged apartment and office blocks. However, the Dutch economy was in recession and the only interest shown was from the original developers who were in no hurry. They had to ensure the scheme would satisfy their parent bank's investment criteria and await recovery of the economy after the downturn, to secure investment funds.

From the mid '80's the economic climate improved, but investigations, proposals and negotiations, dragged on until 1989. By then the developers were under pressure from their tenants to respond to retail competition elsewhere by refurbishing and expanding the centre. Politicians and officers had been made well aware of this. Consequently, when an application, spurred by the national 'compact city' policy of 1988¹³⁸, to 'revitalise' the area, was received from their own department of urban development, they decided to reject this and negotiate instead with the original developers, getting them to provide a mix of houses, shops and offices.

The developer's architect produced a grand design to 'bring life back to the centre'. An impressive street level entrance to new ground floor shops would link with the 1st floor pedestrian precinct. Slab apartment blocks would line the main road and provide a 'vivid wall of light' at night-time, while two taller blocks would form an entrance 'gateway'. Involving changes to the B-plan, the scheme was put on public display¹³⁹ and, after agreement with the Province, Article 19 procedures were put in hand in 1991.

However, environmental consciousness was growing. Part of the land needed de-contaminating and tests showed noise levels to be so high that building could not be permitted¹⁴⁰ without adopting special insulation measures. Special materials and triple glazing was the answer, increased costs being covered by a 50% central government subsidy and 50% from the municipality. Faced with this, soil clean up costs were underestimated by the land department to avoid political refusal on cost grounds.

Despite this, concerned for sales, costs and profits, the developers refused to adopt their own architect's scheme. Aided by a local policy requiring 75% of a residential development to be sold or let before building works could start, the top floor of the 5 storey office blocks was removed as too costly, enabling a housing association to pre-buy the remaining flats. Pending acceptance of the revised drawings, temporary permission was granted in early 1992 and the full permit in November.

Figure 30 Synopsis case N-05 - 'Hoogoord's' incomplete retail centre

7.5.1 Issues and processes

Even though the plan was not followed, this case seems to have 'followed the book' procedurally, changes being made through the permitted Art. 19 procedures. Yet within this conformity several important issues can be found. First, and effectively directing all else, are those of a commercial nature. In the initial project what were perceived as non-commercial planning requirements resulted in a 10 year moratorium on planned surrounding development. Economic downturn then caused this to be of little commercial interest, except to the original developers who, albeit possibly by accident, had secured their position via the retail association. As the developer weighed the returns to its parent and waited on its funding, this association's demands for refurbishment effectively pushed the development forward, over-riding the land company's freehold interest who were then faced with soil clean up costs. 'Delayed too long', Hoogoord's politicians urged officers to grant an early permit and they, in "a sort of Laziness"¹⁴¹, and recognising that 'time is money', employed Art.19, further speeding

¹³⁸ The 'compact city' policy emphasises high densities in urban renewal areas, in-filling elsewhere, and developing housing on the urban fringe. The object is to make fullest possible use of existing facilities and infrastructure without placing extra burdens on the environment (M. Hoogerbrugge, January 1994, personal communication).

¹³⁹ Under Art. 19a, 3, WRO (Physical Planning Act) plans have to be displayed for 2 weeks.

¹⁴⁰ The appropriate law is 'De Wet Geluidhinder' - the 'sound nuisance' law.

¹⁴¹ Planning officer.

change by keeping public display to the minimum two weeks and issuing a 'temporary permit' several months before the formal permission. After their architect had agreed designs with the officers, with an eye on both costs and sales returns, the developers insisted on revisions. These were supported by political leaders and Hoogoord accepted them, together with at least the part cost of satisfying legislative requirements in respect of their implementation. At every turn, it seems, the part built plans of the late 60's were forced into the mutated commercial mould of the 1990's, as seen through the eyes of the developer.

Whilst undoubtedly aware of commercial realities, this all suggests lack of commercial experience by the officers over an extended period of time. However, the case also touches planning issues. From the permit conditions Hoogoord seems to have considered noise, parking, access and egress - but these were of commercial concern anyway. They do not appear to have addressed the needs of new residents for fresh air, outdoor living and recreational space, to say nothing of general amenities, etc. These too have commercial considerations, dealt with by the developer's cost cutting measures to enable an outright sale to the housing association. Arguably, development control was present, but as an exercise in technical conformity, lacking consideration and judgement of wider issues, including policy, unspecified by regulation.

7.5.2 Practices - locating the decision and process

What also emerges, made more clear by the detailed case records than can be shown in the facts tabulated above, is the covert nature of much of the process. Believing that they 'know' the public interest, politicians and officers admit to informal meetings with developers before any applications were received, and to keeping details of these secret until the last possible moment in order to protect commercial relationships. Within policy parameters, this form of 'negotiating nexus' appears to be the key to Dutch planning and development control practice. Such secrecy seems prevalent inside the authority too, as evidenced by the land and planning departments concealment of clean up costs from the politicians. Or, to invoke Machiavelli, perhaps all three co-operate to hide this from the public, facilitating the implementation of the 'compact city' policy which, in itself, may be seen as aiding commercial imperatives¹⁴². If lower cost, edge of town developments are positively ruled out, then no one can gain competitive profit or market advantage from this. Usually orientated around the mayor, those with access to such discussions share a privileged, elite, decision influencing, if not making, position. Transparency scores nil. But then, if only tenants (residential and retail) are involved, and they are subservient to the elite anyway, perhaps this is not considered such a problem.

Although framed by the 'rules', the overall process led to the B-plan's redundancy and its eventual displacement. Yet, whilst it remained in place it provided Hoogoord with an instrument of social and commercial coercion, aiding the achievement of policy, albeit that this became mere reaction to cir-

¹⁴² By concentrating on denser use of existing infrastructure, facilities and amenities, and potentially saving travel, this may be claimed to reduce both capital and revenue expenditures.

cumstance and not a planned concept. Accordingly the decision process can be seen as a mix of idealised type 1 (plan driven) and 2 (policy driven).

If the retail centre tenants are seen as the local community, then both they and the local economy may have benefited, likewise residents of the district. But if the incoming residents fill this role then their interests seem to have been subjugated to the wider public (via the land company) interests, profit and commercial power. This consideration seems to bridge the upper and lower matrix segments. With conformance and system access relaxed by a degree of negotiated judgement, horizontally the decision may be seen to the right of segments 'A' and 'D' (see Figure 31, p.140). If, contrary to the 'rules', policies are to become the guardians of equity, as seems the case here, then maybe greater reliance should be placed on market pressures and consumer power to deliver equity. Via related commercial concerns, this appears to some extent to be what happened here. Only because of this can equity score 2, this being held down because the 'fresh air' needs of residents in the new blocks appear ignored.

7.6 The Dutch development permit decision process

Intrinsically these 5 cases seem to say a lot about the decision making process and the type of decisions involved in Dutch planning. They suggest that in practice flexibility in decision making goes far beyond the "*still quite small*" latitude envisaged by Davies (1989, 365), pays little regard for objections (p.364), and resembles far more the informal '*section 5*' ignoring of 'rules' which he reported (p.369) as applying only to minor, non-controversial development. In particular, commercial considerations appear to present a very real challenge to the "*..legal certainty which underlies Dutch law and administration.*" Similarly confronted, the flexible English system enables such considerations to be addressed just like any other interest, even if in reality this may place a strain on them. To a greater degree than reported by Thomas (1983a), in order to 'bend' with changing circumstances, it appears the Dutch resort to informal, unwritten and largely covert practices which prescribe a network of privileged access to the process, provide one to one negotiation for developers, and allow them major inputs into practical land allocation. This may happen in England¹⁴³ but, whether or not it does so, the system there is able to recognise this, whereas this seems difficult, if not impossible, in the Netherlands. There, it is necessary for resultant 'deals' to be converted to 'fit' regulatory frameworks, supported if necessary by political bargaining between tiers of government, in order to grant formal consent, practices unnecessary in England. Dutch transparency and equity are supposedly assured by the sequential process of proceeding from plan to permit. But these cases show that decision making does not proceed sequentially. Subject to possible caveats, for example the possibility of gains for policy, this compromises transparency and equity.

¹⁴³ See, for example Simmie's (1981a) analysis of planning policy in Oxford, Elkin's (1974) study of how developers manipulated concessions in Chelsea, and Saunders' (1979) study of developer power in Croydon.

7.6.1 *Decision models and Dutch practices*

Table 13, p. 139 shows how Dutch development permit decisions are seen to be a mixture of the heuristic models (4.3.1). This also occurred in England, but there 'negotiation' was also able to stand alone. The Dutch cases not only appear to follow no single process, but the processes may vary over time, possibly related to the stage in Goodchild & Munton's (1985) 'maturing circumstances'.

Although Dutch policy is geared to drawing commercial interests in to achieve public purposes (Needham et al. 1993), the boot seems to be on the other foot. This raises a conundrum. Unless the public sector builds everything itself, it is inevitable that commercial considerations play an important

| The Dutch permit decision process | | | |
|--|-------------|------------------|---------------|
| Case | Plan | Negotiate | Policy |
| N-01 | | 1.5 | 1.5 |
| N-02 | | 2.5 | 0.5 |
| N-03 | | 1.5 | 1.5 |
| N-04 | 1 | | |
| N-05 | 1.5 | | 1.5 |
| Totals | 2.5 | 5.5 | 5 |

Table 13 *Decision models and Dutch practice*

part in initiating project proposals. Again, the English system is able to recognise this while, formally, it seems the Dutch are constrained from doing so. Indeed, the degree to which these cases indicate that decision processes are driven by commercial considerations, is notable, with time, market conditions, opportunities arising

both from legislative change and out of date plans, playing a major part in these. Subsidies, openly recognised as important in Dutch planning, benefit the private sector and are closely linked with these commercial considerations. Although the incidence and range of development types involved is too small to draw inference, the cases indicate the influence of migration from cities, infrastructure change, and that private architects may become commercial catalysts promoting changes to the plan.

7.6.2 *Dutch rules -v- Dutch interests*

The decision matrix¹⁴⁴, Figure 31, p. 140, shows that a range of rule enforcement behaviours applies. However, it also suggests that either these hold little concern for local interests, or that the key players think they know what these are. While the cases suggest approximately the same inclination toward commercial and political interests as those in England, the Dutch seem slightly more constrained by the 'rules'. Thus, planning and permit decisions do appear willing to accommodate commercial power. This may displace municipal policy as the guiding light, although in itself this is influenced by commercial awareness. Displaying the same tendency as in England, however derived, policy decisions override plans. But, with the exception of technical standards, control of which is held by the building office, it is difficult to tie down exactly who is responsible for taking these decisions. In England this can be traced through the planning committee to officers or ruling party leaders (2.4.3, Ch.5). In the Netherlands, within an abstruse network of concensees, the regulatory system itself provides informal mechanisms to process decisions informally. For example, once an idea 'gets into the system' and relates to municipal objectives, providing it can be made to accord with the regulations - or vice versa, then it has every chance of becoming reality. Many decisions seem taken in ad-

¹⁴⁴ see glossary for explanation.

vance of formal application, albeit that they lack a basis in any plan. The system is thus seen as reactive not proactive, the reverse of what might be anticipated, with the formal sequence implied in the legislation of plan - permit - project, tending to go in reverse order - project, permit and then plan. Here, politicians and municipal land companies together appear to represent, if not devise, local policy inputs. Cumulatively, as might be expected, these may be linked to the wider public interest but, as in England, appear to show little regard for the local community affected. If this were to reflect solely municipal politics and policy, the city fathers and their officials, supposedly 'acting on behalf of' the citizens, might actually be described as adopting a 'paternalist' attitude. But, given the extent of commercial involvement, 'autocratic' seems a more suitable term

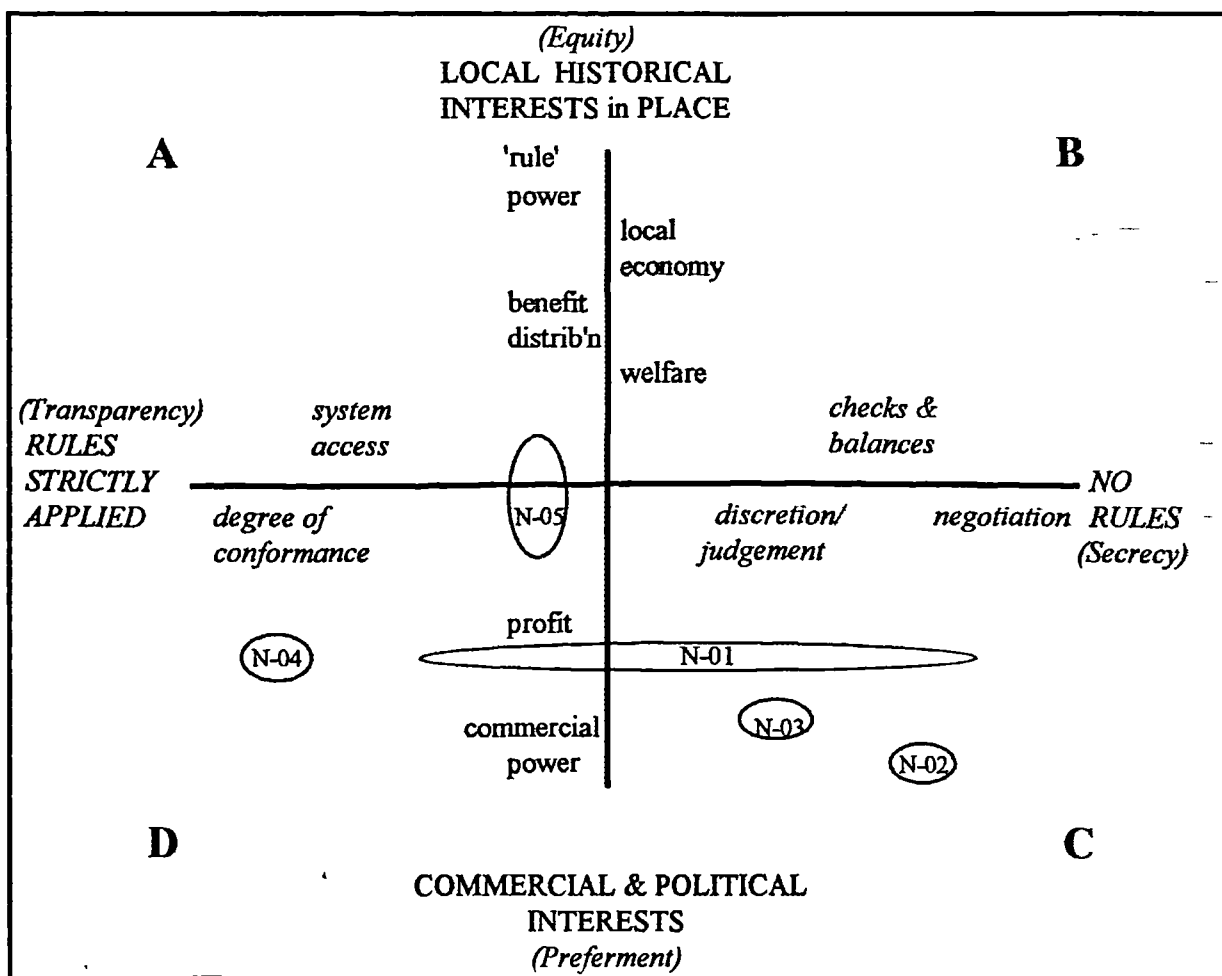


Figure 31 Matrix of rules, interests and power in Dutch land use decision making

7.6.3 Ranking of factors in the Dutch decision making process

An examination of the ranked factors¹⁴⁵ (Figure 32, p.141) shows rules and policies to be in conflict in all five cases. Whereas all three types of decision process are noted above (7.6.1), here it can be seen that policy leads negotiation within this. Nowhere were pre-determined plans found to be followed. The relative importance of these two factors is approximately the reverse of that in England, although both are still highly ranked. This difference may relate to the structure of the systems, i.e. conformance -v- performance. Pre-negotiation, however, is seen as similarly important, with market

¹⁴⁵ see glossary for explanation

and investment interests, which both rank more highly than in England, suggesting that these policy issues are 'deals'¹⁴⁶ linked to corporate interests.

| Factors | //Dutch Cases // | N-01 | N-02 | N-03 | N-04 | N-05 | Count of factor | Total weight | Av wt hv count | Av wt all 5 cases | Rank hv Count | Rank hv Av Wt of 5 |
|---------------------------|------------------|------|------|------|------|------|-----------------|--------------|----------------|-------------------|---------------|--------------------|
| Rule & policy conflicts | | 2 | 3 | 3 | 1 | 3 | 5 | 12 | 2.40 | 2.40 | 1 | 1 |
| Policy based process | | 3 | 2 | 3 | 1 | 2 | 5 | 11 | 2.20 | 2.20 | 1 | 2 |
| Pre-negotiation | | 1 | 3 | 3 | 1 | 2 | 5 | 10 | 2.00 | 2.00 | 1 | 3 |
| Negot'n based process | | 2 | 3 | 2 | | 2 | 4 | 9 | 2.25 | 1.80 | 4 | 4 |
| Market pressures | | | 3 | 3 | | 3 | 3 | 9 | 3.00 | 1.80 | 11 | 4 |
| Investment interests | | 2 | 3 | 2 | 2 | | 4 | 9 | 2.25 | 1.80 | 4 | 4 |
| Corporate driven | | | 2 | 2 | 1 | 3 | 4 | 8 | 2.00 | 1.60 | 4 | 7 |
| 'Deal' arranged | | 1 | 3 | 3 | | 1 | 4 | 8 | 2.00 | 1.60 | 4 | 7 |
| Policy issues | | 1 | 2 | 3 | | 2 | 4 | 8 | 2.00 | 1.60 | 4 | 7 |
| Rule manipulation | | 1 | 3 | 3 | | | 3 | 7 | 2.33 | 1.40 | 11 | 10 |
| Other agendas | | 1 | 1 | 3 | 2 | | 4 | 7 | 1.75 | 1.40 | 4 | 10 |
| Rules over-ridden | | | 3 | 3 | | 1 | 3 | 7 | 2.33 | 1.40 | 11 | 10 |
| Town plan out of date | | 1 | 2 | | | 3 | 3 | 6 | 2.00 | 1.20 | 11 | 13 |
| Economic issues | | | 2 | 1 | | 3 | 3 | 6 | 2.00 | 1.20 | 11 | 13 |
| Rules frame process | | 1 | | | 3 | 2 | 3 | 6 | 2.00 | 1.20 | 11 | 13 |
| Long process of change | | 2 | 1 | | 1 | 1 | 4 | 5 | 1.25 | 1.00 | 4 | 16 |
| Image promotion | | 2 | | 2 | | 1 | 3 | 5 | 1.67 | 1.00 | 11 | 16 |
| Developer tactics/rules | | | 3 | 2 | | | 2 | 5 | 2.50 | 1.00 | 20 | 16 |
| Covert process | | | 1 | 1 | | 2 | 3 | 4 | 1.33 | 0.80 | 11 | 19 |
| Appeal proc. Important | | 1 | 2 | | 1 | | 3 | 4 | 1.33 | 0.80 | 11 | 19 |
| Lobbying | | | 3 | 1 | | | 2 | 4 | 2.00 | 0.80 | 20 | 19 |
| Local rules followed | | 1 | | | 3 | | 2 | 4 | 2.00 | 0.80 | 20 | 19 |
| Environmental issues | | 1 | | | 3 | | 2 | 4 | 2.00 | 0.80 | 20 | 19 |
| Plan & rule based proc. | | 1 | | | 3 | | 2 | 4 | 2.00 | 0.80 | 20 | 19 |
| Institutional driven | | 2 | | | | 1 | 2 | 3 | 1.50 | 0.60 | 20 | 25 |
| Infrastructure change | | | 3 | | | | 1 | 3 | 3.00 | 0.60 | 30 | 25 |
| Political issues | | 1 | | | | 1 | 2 | 2 | 1.00 | 0.40 | 20 | 27 |
| Societal change | | | | 1 | | 1 | 2 | 2 | 1.00 | 0.40 | 20 | 27 |
| Speculation | | | 1 | 1 | | | 2 | 2 | 1.00 | 0.40 | 20 | 27 |
| Media influence | | | | 1 | 1 | | 2 | 2 | 1.00 | 0.40 | 20 | 27 |
| Regeneration pressures | | | | | 1 | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Political interests | | | | 1 | | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Technological change | | | | | 1 | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Post negotiation | | | 1 | | | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Jobs | | | | | 1 | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Transparent process | | | | | 1 | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Corruption | | | | | 1 | | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Cmmnty interest/benefit | | | | | | 1 | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Planning issues | | | | | | 1 | 1 | 1 | 1.00 | 0.20 | 30 | 31 |
| Political pressures /el'n | | | | | | | 0 | 0 | 0 | 0.00 | 40 | 40 |
| Individual driven | | | | | | | 0 | 0 | 0 | 0.00 | 40 | 40 |
| Private interests | | | | | | | 0 | 0 | 0 | 0.00 | 40 | 40 |
| Planning gain | | | | | | | 0 | 0 | 0 | 0.00 | 40 | 40 |
| Plans followed | | | | | | | 0 | 0 | 0 | 0.00 | 40 | 40 |

Figure 32 Factors in the decision making process in 5 Dutch cases

This re-enforces and extends the observation made in (7.6.1), and strengthens the view that decisions are driven by commercial considerations. Likewise, this table also implies a similar connection be-

¹⁴⁶ I.e. some form of corporatist bargain is struck which results in (a way being found for) the permit being granted.

tween the manipulation and over-riding of 'rules' with other agendas, earlier associated with the presence of an informal system of managing the process. In England this might be seen as normal. Nevertheless, although plans may be out of date, the formal rules as well as economic issues may be seen to provide the framework for this. It is in the manner in which these are treated, and the conventions which have become established in doing so, that the difference between theory and reality lies. In many ways these seem similar to English practices. Evident from the time charts is the importance of the long periods of time involved in these processes. Numerically this out-classes image, developer tactics, and many of the manipulative issues. On this basis time ranks in importance with many commercial considerations, with which it would seem connected. There are three important points which stand out from the other things which these five cases seem to indicate: i) there is actually a lot of flexibility, albeit informal, in the system; ii) application, decision making and development processes do not appear to follow the sequence which the formal approach suggests; iii) overall the process of obtaining a permit seems to take much longer than in England. Transparency, or lack of it, and the importance of appeal procedures were, if ranked numerically, middle ranging factors. Lobbying features more prominently than suggested earlier, although not as strongly as in England, while environmental issues also seem stronger than earlier thought, being ranked higher than in England. Behind these, but with a different distribution from the English cases, the significance of institutions, politics, social and technological change, regeneration, speculation, and jobs is all markedly reduced. Media influence also appears much less important than anticipated in the heuristic *negotiation* model (4.3.1) or found in the English cases (5.3.3) but, along with community interests and planning issues, a hint that corruption is present can be glimpsed at around the same level.

Overall this analysis shows little evidence of formal plan or 'rule' following behaviour, supporting the observation in (7.6.1). Although there is concern for policy, this is implemented in a negotiative rather than rule-following way, indicating a shift toward English practices. At the foot of the table, 2 more noteworthy points emerge - the apparent absence of both party political pressures and private interests, almost the reverse of the English findings. Furthermore, any equivalent of 'planning gain' is not easily recognisable. As Needham, *op cit.*, suggests, since Dutch municipalities are development site producers, this may be absorbed by them via sale proceeds. But, since such transactions should be non-profit, this mechanism may also disguise subsidies which benefit developers.

7.6.4 Indicators of transparency and equity

In contrast with English practices, the apparent absence of planning principles from decision criteria and the planning officer's role as arbitrator between departments to negotiate ways round the rules where they impede decision, are consonant with a lack of transparency and equity (Table 14, p.142: Chart 2, p.143), both of which score less on average than the English cases. It is, then,

| 5 Dutch cases | | |
|---------------|--------------|--------|
| Case | Transparency | Equity |
| N-01 | 2 | 5 |
| N-02 | 1 | 3 |
| N-03 | 3 | 3 |
| N-04 | 3 | 2 |
| N-05 | 0 | 2 |
| Total | 9 | 15 |
| Ave | 1.80 | 3.00 |

Table 14 Transparency/Equity Indicators

unremarkable to find rules and third party interests being manipulated or ignored, aesthetic considerations having little significance, and the aesthetic committee being used as a forum for interest mediation. However, while present in at least two cases (N-03, N-04), the suggestion that environmental concerns are not considered sufficiently is highly charged, particularly in a country which prides itself in addressing such issues.

In addition to those normally found, a range of instruments is used in Dutch 'commercialised planning'. In this, a two way process would seem to operate. Whilst the public sector substantially creates policy apparatus (Needham, *op cit.*), much as in England, private developers shape individual projects according to the prevailing policy climate. In the five cases considered, municipalities appear to have developed well oiled processing machinery to convert negotiated development deals into realised projects. Whether or not this involves manipulation or breach of the 'rules', these can call on political support, mobilising the media to manage and secure favourable public opinion. However, in contrast with England, generally the system appears to operate so as to avoid contentious issues and conflicts, affording participants the protection of anonymity within its maze, should this be needed.

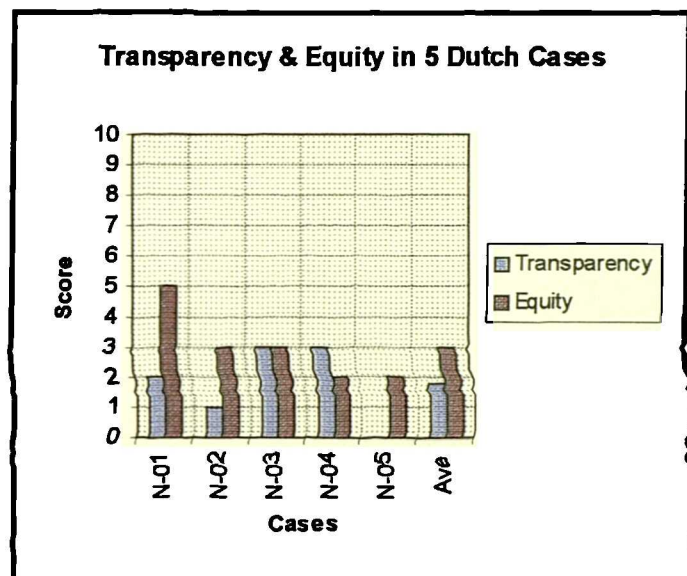


Chart 2 Transparency & Equity Indicators compared

Germany

It was not until 1871 that steps were taken to bring a large number of principalities together as a single German state. After World War II, until the accession of former East Germany in October 1990, the Federal Republic consisted of 11 federal states, or (old) '*Länder*'¹⁴⁷, subdivided into counties, municipalities, and communes. The addition of East Germany has added 5 new *Länder*, making 16 in all. This includes the 3 'city states', or major cities, of Berlin, Hamburg and Bremen. In keeping with the federal tradition, the *Länder* are in no way to be seen simply as regional administrative entities serving a central government (e.g. as 'prefectures'), but rather as possessing limited sovereignty. Each *Länder* has legislative competence for its own territory and is charged with implementing both its own and Federal laws

The Constitution of the Federal Republic of Germany is laid down in the Basic Law (*Grundgesetz*) of 1949. This respects the principle of the separation of powers, i.e. the strict division of legislative power, executive power and the dispensation of justice. Constitutional practice is determined by the relationship between parliament and government, organised not as a presidential system like the USA, but as a system of parliamentary government. In this the Chancellor, as head of government, is elected and supported by a parliamentary majority of members elected to the Federal Parliament (the *Bundestag*) (FMRPB 1993). Headed by a political executive, each municipality has, *inter alia*, powers to plan and control development, both directly and as agents for the *Länd*, with, legally, the council and a directly elected, or council appointed, Chief Executive, making policy (Hooper 1989, 264,266) .

Continuing a long historical tradition, suspended only by the Nazi and Communist (in East Germany) regimes, the *Grundgesetz* guarantees municipalities the right to organise their own affairs via a local-council, or *Gemeinderat* ¹⁴⁸. Heads of local government are elected either by the council or the electorate, the procedure varying from *Länd* to *Länd*, with co-optation¹⁴⁹ apparently rife.

¹⁴⁷ A *Länd* is an individual, self governing, German State, similar in structure to States in the USA. Whilst not directly comparable, they may be similar in territorial area to an English Region, the 'City States' being similar to Metropolitan Areas

¹⁴⁸ Article 28, para. 2 of *Grundgesetz*.

¹⁴⁹ co-optation: used in this thesis in the subversive sense to mean the assimilation into a group or culture of actors or agencies, possibly holding specially relevant knowledge or skills, who may be averse to some group

Co-optation

"Councillors set their own salaries¹⁵⁰ and there are a lot of possibilities regarding life style. Councillors are also appointed to the boards of various local companies/organisations. Even I am on the board of the Spaarkasse (Civic Bank). For this I attend 5 meetings a year, which are really social (food/drink) occasions. I get 300 Dm. per meeting even though it is impossible for me to make any judgements or contributions to the professional management of a bank." There are also various "splendid" trips, 5 star hotels, etc. We (the Greens) have tried to restrain such payments, etc.. But the public say "Why not? - They've done it for ever", etc.., There is no public sensitivity about this. Even when scandals are published in the press, then they say "thanks for letting us know", but there is no real concern. The ruling elite are like 'local princes'.

Interview with Green Party councillor, February 1993

Urban planning has two stages; the preparatory land-use or *Flächennutzungsplan*, which sets out land-use intentions for the entire municipal territory, and the legally binding local land-use *Bebauungspläne*, which must be developed from this. The Federal Building Code, or *Baugesetzbuch*, establishes planning principles and procedural rules to govern their preparation and implementation (FMRPB 1993). Planning authorities can freeze development while new plans are being made. They also have powers of pre-emption, expropriation and re-plotting¹⁵¹.

However, subject to the proviso that their exercise is not permitted to impinge on the rights of others, the *Grundgesetz* limits the scope of the authorities to influence building activity, land-use and the development of settlements, in two important respects:-

1. the basic right to own property, including land and buildings and the free use of these.
2. the basic right of individuals to free development of their personality, including place of abode. This precludes restriction of migration and related control of settlements.

The right to own property is also subject to one, specific *Grundgesetz* qualification, that ownership implies the 'social obligation of property ownership'; i.e. that the use of property must be for the general good. It is this which provides the legitimation for much planning and other land-use intervention, e.g. expropriation, and regulation. The general approach to this remains grounded in health, safety, order, conservation, culture and utility provision. Public influence is exercised via statutory and other standard provisions, financial incentives (tax breaks, grants, loans, subsidies) and persuasive strategies (advice, negotiation, forms of co-operation, etc.).

To avoid municipal financial dependence on the Federation's 'Golden leash'¹⁵² (FMRBP, *op cit.*), a statutory and highly regulated system of fiscal adjustments is in place. This takes account of all local, regional and national taxes and, in recent years, has led to around 15% going to municipalities, 40% to the *Länder* and 45% to the *Bundesrepublik*. Beyond the general principle contained in the

act or object, thereby obtaining their quiescence and/or co-operation, possibly via some inducement or other persuasion.

¹⁵⁰ In England only the Chairpersons of County Councils are salaried. Other County and Municipal (Unitary Authority) councillors may claim expenses for attending meetings and for loss of earnings. In all cases maximum levels are fixed by Central Government.

¹⁵¹ The land re-allocation law covers the allocation of property rights and adjustment of plot boundaries. It allows unfavourable plot boundaries to be adjusted to create plots of a more functional nature.

¹⁵² i.e. central provision of funds.

Grundgesetz, which makes each territorial entity bear the costs of any task for which it is responsible, joint funding and support /subsidy is available for specified projects. Extensive infrastructure requirements relate to development permits. Municipalities are responsible for providing these, but can recoup up to 90% of their cost from the landowner/developer.

To ensure that application documents are suitable for technical inspection they must be prepared by 'people with the relevant skills'. Usually this means architects or civil engineers. Work cannot commence before approval is granted and, in the absence of specific waivers, the owner/developer must appoint both an engineer, to be responsible for the works, and 'capable' contractors. The local authority still retain rights of access, inspection, requirements for notifications and certification of completion before the building may be occupied.

The system appears to remain techno-design orientated, favouring the person/firm most able to address all regulations and technical requirements. They are most likely to obtain the fastest, trouble free permits and therefore be most in demand by the development industry. Conversely, the system seems to provide least scope for innovative design, 'non-regulated' considerations, and promotes conservatism and potentially repetitive and monotonous urban environments. From the files examined, which showed mainly line drawings and technical detail, there is little evidence of concern for aesthetic or social considerations.

Overall, the impression gained is that German 'rules' give the appropriate professions not only a sinecure but also a charter to run up fees, for example via the constant detailed redesign of plans and calculations for submission. Additionally, as in the Netherlands, it seems to permit responsibility for decisions to be 'fudged' and even manipulated. As one building inspector admitted, *"Under pressure from powerful actors, sometimes the building department 'forgets' to consult other departments on various issues, like trees and transport."* (D-01/1).

Some indication of the reality behind the semblance of regulatory correctness, is given by the evidence of one German planner. In his words, when teaching planning in another country, he *"... could not tell them the real truth because of our own corruption."* Instead he *"... had to make out to them that the German system of regulation, codes and strict plans, avoided this."* This may just reflect a Planning Professor's explanation that *"To work in a system you have to believe in it, but many people, including planners are disillusioned."* (D-gen/67). However, the comprehensive nature of this planner's testimony reflects many of the similarly informed interviews across the research. Accordingly a transcript of the interviews with him is included at Appendix 7.

It seems accepted that, until about 1980 it was fairly common for administrative officials to use the 'rules' to protect politicians. Since then, *"... planning has become less technocratic and more political. Politics and administration have entered an era of 'crisis management' in which plans, rules and regulations are allowed to be overridden to address these crises."* (D-gen/67). It was

most difficult to trace the permit decision point and, although internal forms were ticked to show 'unanimous' decisions of committees and local councils, no evidence was provided of these. Also it was unclear on what occasions and basis their approvals are being sought. Neither is it clear from the formal documentation and general informants who, if anyone, takes decisions to approve or refer applications from within building departments.

8.1 Klienstadt

Although it had been planned to conduct the same number of interviews in Germany as in the other mainland EU countries, one RA dropped out at the last minute and, unfortunately, only two studies were conducted. Both of these were in "Klienstadt". Like many German cities, as noted above, its ruling politicians seem generally regarded as local 'Princes'. They rule a series of smaller towns and villages within the administrative area occupied by Klienstadt's 350,000 population. Old rivalries persist between many of these 'burgs', there being considerable resentment that many powers of self government have had to be ceded to the local centre. Linked by public transport, many still enjoy open farmland between them. From the late 1970's economic restructuring made it increasingly obvious that traditional industries could not guarantee future prosperity. Klienstadt sought a new role and image. Policy aspirations of becoming a centre of technology, knowledge and science, were encouraged. An international exhibition centre, able to attract conferences, fairs and sport events was envisaged. As receptor for development applications, the Building Department's practical day to day role is handling the planning response to these. In their terms, it is their job to attract to, or keep money in, the city by keeping developers interested. To this end they avoid the lengthy necessity of making new B-plans to accommodate a non-conforming proposal by, wherever possible, using §34 Bau-GB¹⁵³, keeping the planning dept informed of their actions. Investigated with the help of a single RA, the German cases are:-

| Case | Dev. Type | Description | Site Type | Decision |
|------|-----------|---------------------|-----------|------------|
| G-01 | Leisure | 200 bed Hotel | Urban | Change use |
| G-02 | Mixed | Retail, residential | Redevelop | Change use |

8.2 "Last Stop Hotel" (Case D-01)

| <i>DETAILS - case D-01</i> | | | |
|----------------------------|---|-----------------------|---------------------------------------|
| Site area: | 18,277m ² | Site Type: | Urban park |
| Dev. Type: | Leisure, 15,575m ² , hotel | Location: | South of inter-war inner central core |
| Planned use: | road, park, urban | Policy use: | None for site or area. |
| Actual use: | park and road | Outcome: | Use changed |
| Project idea: | 1988 | Application: | 1989 (competition), 1992 formal |
| Decision/s: | 1988, '89, '92, '93 | Decision type: | Policy / negotiation |
| Actors: | Developers, architects, hotelier, political leader, department heads, | Agencies: | Municipality, Banks, |

¹⁵³ §34 Bau-GB is a section of the German Federal building law. When a plan is in formal revision or a new plan is being made, the old plan may be suspended and permits granted for applications which are in line with the new plan proposals - a similar situation to that found in the Netherlands.

Because Klienstadt was not well equipped with high standard hotels, visitors would stay up to 50 miles away. A policy of attracting suitable hotel developers and operators was adopted.

| <i>Time diagram -case D-01</i> | | | | | | | | | |
|---|---------------------------------|--------------------------------|---|--------------------------------|---|---|----------------------|----|---|
| 1970 | 80 | 88 | 89 | 90 | 91 | 92 | 93 | 94 | |
| ////////// | ////////// | | / | / | / | / | / | / | / |
| industrial re-structuring Land use redundant | Policy to solve hotels shortage | Dev. notes site, talks to city | Arch. comp'n Given option Agm't for hospital site | Search for investor & operator | Hotel dev. buys site City give last deadline for financial guarantee Protected trees felled | Local Savings Bank refuse guarantee Guarantee obtained Appl'n not as req'd Cttee agree plan B4 new appl'n. Partial permit | Final permit granted | | |

Synopsis - case D-01

To the south of Klienstadt's inter-war urban core, land enclosed by a tram terminus turning circle became established as a small park with mature, protected trees. Virtually on a junction with a busy main by-pass, as is common in such locations, no local plan (*Bebauungsplan*- B-plan) existed, the area being subject to BauGB §34¹⁵⁴ as an urbanised core/central area. However, it was noted on the 1985 city plan as possibly being contaminated.

Technological advance to double ended trams made the turning circle redundant so that the trams ran on only one side of the park. Owned by the city, increased traffic, fly-parking, reduced maintenance budgets, etc. led to its progressive deterioration at the same time as the character of the area was changing, e.g. by conversion of houses to flats. Linking this site with the new policy to encourage hotel development, in 1988 a local developer, FOAC¹⁵⁵, raised the possibility with officials who referred it to council leaders. The idea received press coverage and a second developer, SBNLC¹⁵⁶, expressed interest. Encouraged by their leader, a lay planning expert, and unanimously in favour, in 1989 the council ran a competition for the site.

Now SBNLC owned a parcel of ground which the council wanted for a hospital extension. SBNLC approached a most notable and politically well connected architect¹⁵⁷ to prepare their entry. It won, they were given an option to buy this land, and, whether or not part of some pre-agreed 'deal', the municipality got the land for the hospital.

But neither SBNLC nor the architect had any experience of hotel development. An investor, a performance guarantor, and a high class hotel operator, were needed; the first for SBNLC's exit route, the second and third to satisfy time-limited conditions of the award. None of the international hotel groups approached could be persuaded to show interest. Final condition deadlines on the permit came, went, and were renewed. Eventually the head of the city's land department used his contacts to produce a German investor/developer, LDC¹⁵⁸. They linked in an international operator, WWHC¹⁵⁹ and jointly obtained the performance guarantee. Contracts made between SBNLC, LDC and Klienstadt, transferred the option to LDC, tied in SBNLC as contractors, and nominated WWHC as operators.

However, the winning design was not commercially acceptable to the newcomers and the guarantors insisted on revisions. Arguments between them and the architect resulted in a second architect being appointed to work alongside the first. Meanwhile the environment department complained that permission had been given and the protected trees felled without reference to them. Compensation was demanded.

With designs revised and the size reduced, an application was eventually submitted. Unhappy about this, the first architect publicly announced his withdrawal, taking with him his political and officer connections. The officers met; the committee met. The design did not follow the competition entry or satisfy certain of the award conditions. In March 1992, the chief building officer issued a report condemning it for not observing regulations. It was refused.

¹⁵⁴ any (re)development must respect the use, nature, fabric, design and mass of existing buildings.

¹⁵⁵ pseudonym "First Of All Company".

¹⁵⁶ pseudonym "Second But Not Last Company".

¹⁵⁷ Apparently many senior politicians, professionals, and others connected with urban development went to school (and served in the war) together.

¹⁵⁸ pseudonym "Last Development Company".

¹⁵⁹ pseudonym "World Wide Hotel Company".

In May rumours of the project's cancellation were voiced in the press. Two days later an emergency meeting was held between political leaders, SBNLC, LDC, and the new architect. A 'solution' was found, a new application with minor amendments made, and a favourable report extracted from the chief building officer.

LDC now sought to re-negotiate the contract price with SBNLC, who had fixed this in relation to the original, larger design, but they would have none of this. In July 1992, by agreement they withdrew. On 21st September a partial permit was issued, enabling foundation works to commence while construction detail was finalised. The final permit was granted in January 1993.

Figure 33 Synopsis case D-01 - 'Kienstadt's Last Stop Hotel'

8.2.1 Issues and processes

Breach or misuse of regulations and instruments; structural, technical and environmental change; hidden agenda's and planning principles; lobbying and the media; political, ownership, and commercial power; and financial and market forces; are all issues present in this case. Contrary to legislation¹⁶⁰, the investigation revealed a general complaint from officers that they were improperly directed or pressured to use their legal authority to legitimise political decisions, even where these contravened other legislation. §34 BauGB seems to have been the prime tool for achieving flexibility. Although the chief building officer's first report showed the application as not acceptable, with little significant change his second report recommended approval. Informants suggested that both reports were as directed by the ruling executive, the first to exercise pressure, the second to support their decision. Likewise, albeit reluctantly, they recognised the *Competition* as a device, the 'winner' being determined in advance. Masking partiality it enabled the separate agenda of acquiring the land for hospital use to be achieved. It also proved an additional vehicle for control through which extra conditions relating to guarantees and operating standards could be introduced. They also generally agreed that major development decisions were pre-determined inside the executive, technical officers being given the task of regularising and legitimising them. Indeed, the deputy chief planning officer - one of few qualified planning graduates - stated that co-ordination of all departments to this end was his prime job. Erwin and Scheuch (1992, 69-70) note the same tendency¹⁶¹.

Of course, as the case illustrates, rigid plans present major hurdles for political and other policy makers, especially when faced with economic restructuring and environmental change. Here, with no idea of what to do with the land, perhaps even not recognising its availability, the land lay idle, unconsid-

¹⁶⁰ § 36 Baugezetsbuch, BauGB (Federal law) specifies when officers must involve the city or higher institutions/officers, e.g. the Regional Presidents Office or land Ministry, making technical staff quasi-autonomous. Although city councils may direct, or even delegate to, them on matters of policy, they cannot do so where this might contradict or conflict with their legal responsibilities.

¹⁶¹ In their scientific study of politicians, coalitions, and inter party networks Erwin & Scheuch (1992) state "The political representatives and the administration penetrate each other, especially in big cities. The actual centres of decision are the party groups. Corresponding to that, decisions are made. Discussions in the council and in the committees are pure formality, because the party group makes the pre-decisions". In a further case study of Cologne they state "As usual in the city councils in Northrhine-Westfalia their influence was based on the two most important positions of power that exist in local parliaments. With possession of the post of the party-group leader and the party-group manager you rule, in agreement with the leader of the party and the partners of the other big parties, the administration and the city"(p.79). The top of the ad-

ered. In itself this suggests an absence of monitoring by planners. It was the entrepreneurial opportunism of FOAC which brought its potential to light. This discovered, nothing stands in the way; not protected trees, not contamination, not traffic hazard, not sewerage capacities¹⁶² or other utilities. Files showed no consideration or consultation on these matters prior to the decision. Neither was any reference to planning principles in evidence, for example in terms of traffic generation, nuisance, daylight, etc. and public objections were sidelined. Lobbying was largely effected through close contacts and direct negotiation, either with the political rulers or their senior civil servants, but the media seems to have been cleverly used to help form public opinion and create pressure when needed. Municipal power was well balanced by the unique availability and capability of LDC and WWHC. Control shifted to them after exercise of the land purchase option. The director of LDC acknowledged that, to increase profitability, design revision was one of their initial aims. But the loss of good connections when the first architect withdrew seems to have caused subsequent problems for them. Maybe he even used his influence to get back at them for his loss of face and position. Nevertheless, they used their financial and commercial power and their specialist understanding of a niche market and its forces to capitalise on Klienstadt's need and public policy commitment to the project.

The process here, then, is not plan or regulation led. Neither is it strictly policy led. Although there was a general policy to secure more high class hotels, no policy existed for the area before FOAC came forward with the idea, although it was adopted afterwards. Had the project been cancelled or withdrawn then, as the planning officer confirmed, it is possible that another use could have been found and agreed. It was negotiation which promoted and saved the scheme, giving this case a mixed policy/negotiation decision process character in terms of the idealised models.

8.2.2 *Practices - locating the decision and process*

As noted, the interests of the local community were sidelined in pursuit of major restructuring policies. They lost facilities and may suffer from increased traffic, noise, etc. The project was ignored by many specialist firms and taken on by LDC only because they could see opportunity to negotiate extra profits through design variation. Thus this case falls firmly in the lower right sector of quadrant 'C' on the decision matrix. Media use and the high profile nature of the case made much of what was happening quite transparent. But the machinations behind the scenes effectively clouded regulatory abuse, giving a score of 5 for this. Lack of consideration for local and environmental concerns, in spite of the regulatory protection for these, rates equity at 0.

8.3 Superstore mixers (Case D-02)

This is a case where four applications were submitted for essentially three different proposals by three

ministration is included because 70% of party members are most closely interconnected with the party system - an extreme contrast with the concept of the civil service in England (p.45).

¹⁶² The city apparently has no sewage works of its own, everything being emptied into a river course to flow to a regional works 30 miles away. They determine their own overall capacity, but there appears no way for this to be calculated back to local development demands.

different out of town developers. The local plan (*Bebauungsplan* - B-plan) covering the site had been suspended, an order made preventing any further development, but no new B-plan fully prepared. If the building department file had not been read before the planning file, then the latter would have been unintelligible. This seems fairly general practice. As explained by the planning officer, "The object of the planning dept file is to make the process of plan change intelligible, NOT the development." (D-02/2).

DETAILS - case D-02

| | | | |
|----------------------|--|-----------------------|---|
| Site area: | 6,400 m ² | Site Type: | Redevelopment of factory |
| Dev. Type: | Mixed: retail & 30 flats | Location: | Main road in northern residential suburbs |
| Planned use: | Industrial | Policy use: | Produce new B-plan |
| Actual use: | Vacant factory | Outcome: | Change of use |
| Project idea: | 1986/7 | Application: | 1988, 1989 |
| Decision/s: | 1988, 1989 | Decision type: | Policy, negotiation, manipulation |
| Actors: | Developers, architects, officers, consultant, politicians, | Agencies: | Consultees, councils, media, |

Time diagram - case D-02

| 1962 | 1973 | 77 | 85 | 87 | 88 | 89 | 90 | 91 | 92 | 93 | 94 |
|--|--------------------------------------|--------------------------------------|----------------------------|---|--|---|--|--------------------|---------------------------------|-----------------------|----|
| / | / / / / / | / / / / / | / / / / / | / / | / | / | / | / | / | / | / |
| B-plan confirms industrial / Comm'l use. | App'l'n to build new factory refused | App'l'n to build flats & pub refused | LA think new B-plan needed | 3 appl'n 'frozen' Consul re B-Plan Contam-ination ? | Demol'n suggested site Dev. buy Appl'n 1 permitted Guidance note | Dev. sell site Appl'n 2 refused Objection lodged Appl'n 3 given OPP | Dispute re detail Contam'n report Internal problems Permit | New B-plan dropped | Social housing subsidy obtained | Development completed | / |
| | | | | SITE BECOMES EYESORE | Stop notice | SITE IS PUBLIC NUISANCE | | | | | |

Synopsis - case D-02

Although the 1962 B-plan confirmed the site zoning as industrial/commercial, by 1973, when an application to build a new factory was made, Klienstadt's planners were having second thoughts. Maybe a residential area was not appropriate for a factory. As if to reply, the factory closed soon afterwards, progressively becoming a worsening eyesore on a main approach to the city. But, given its zoning, what could be done?

In 1977 an application for flats and a pub was refused. Nothing further happened. By 1985 a new B-plan seemed the answer, but for what? In 1987 applications from 3 different developers for retail use were 'frozen' via §15 Bau-GB¹⁶³ on the basis that a new B-plan was to be prepared. Klienstadt's planners were concerned to avoid large scale retail use. But given a court ruling¹⁶⁴ they had to think of a new classification. Recognising the procedure as long and complicated, the developers lost interest.

In June 1988 a 'stop' notice was confirmed, and an officer suggested that demolition might resolve the eyesore and pave the way for a solution. Before this could be pursued a new application was received for change of use to a tyre fitters, restaurant, and 1167m² supermarket. Mindful of a ministry Guidance Order¹⁶⁵ advising that 1200m² was normally possible, the municipality welcomed this, made an exception to the order preventing development, and granted a permit.

¹⁶³ Where no 'stop' notice has been issued the building department can still defer consideration of any application for 12 months on the grounds that a new B-plan is contemplated. Since the system imposes no time limit for decisions this period can be added to any other discussion or consideration time.

¹⁶⁴ The highest administrative court had determined that large scale retail use was between 600 - 700m² and over, but also that a number of small scale units should also be classed as large scale retail.

¹⁶⁵ Guidance Orders or notes are quasi binding. If an application goes to court then they are a most important consideration.

The site was then sold twice between sister companies, the price escalating first to DM 2.2m. and then to DM 3.4m. In April 1989 the end purchaser applied to amend the permit to all retail, combining the area to 2,092 m². It was refused, large retailing¹⁶⁶ being inconsistent with the new B-plan proposals for 'mixed' development and in June the 'stop' notice was extended to mid 1991¹⁶⁷. The developer lodged objection, causing concern for the municipality since 'large retailing' might be considered to be covered by the extant B-plan's industrial and 'commercial' zoning.

The developers held back as the site became a public danger and nuisance, with fly tipping, fences being broken down, children gaining access. Public complaints and press comment raised officers' concern to get the site developed quickly. An internal memo noted the 'stop' notice deadline, recognised time as too short to do much about the contamination - the environment dept. blamed staff shortage; and specified the objective as to get rid of the urban nuisance.

In November 1989 a new outline application was submitted for mixed commercial and residential use. This enlarged the derelict premises and added more buildings. But it proposed a much smaller, 900m², supermarket with 1417m² in several small shops and 30 apartments in 4 storeys (3400m²). The total built area had increased from the 1860m² originally approved, through 2092m (refused), to 5766m². Total retail area was now 2,317m². Almost immediately the planning department wrote telling the building department that the supermarket had been agreed with them. Senior officers of all relevant departments met and agreed to allow the proposal to go ahead. Since it was in line with 'what they had envisaged in the deferred new B-plan', permission could be granted in contravention of the extant, if out-dated, B-plan and regulations. Although density was higher than the new plan proposed, it was in fact 'desirable' in urban design¹⁶⁸ terms. Exceptions should be made.

Both the local¹⁶⁹ and city councils approved and outline permission was granted subject to conditions, although the letter conveying this made no reference to the conditions. Internally the planning department wrote to the building department. Various wrangles ensued both internally and with the developer, leading to delays. Apparently in a bid to speed matters up the developer commissioned a soil contamination report, which recommended removing and replacing 1m depth. They also offered to pay for an independent consultant to vet the technical details if the LA were 'too busy'. On 4th. December 1990 the full permit was issued, subject to conditions. The city did not proceed with the new B-plan.

Figure 34 Synopsis case D-02 - 'Klienstadt's Superstore Mixers'

8.3.1 Issues and processes

In this case market forces can be seen hard at work. Constrained by, but unhappy about, the 1962 B-plan, the planners lacked ideas for the site's future. In itself this may reflect professional difficulty in addressing small site problems. Whatever the case, developers pointed up retailing, which the planners resisted without apparently recognising trends or presenting any case against this, using the

¹⁶⁶ Bau.NVO 1090 (National Planning by-laws) §11, para 3. defines 'Large Retail Use' not by size but by the purchasing power impact on other shops in the area. If there are no special limits then 1200 m² can be assumed. This by-law can be changed according to cases. National by-laws, which are binding everywhere, are used because they involve only the ministry, not parliament, and can be changed more easily than a national law. Shopping impact is a most important criteria. Normally a report should be made evidencing this, but reports take too long, cost too much, and take too much effort.. There is therefore always a struggle as to who must produce this; city or applicant, and attempts are made to resolve this without a report. The building department think they can assess this from their own background experience and knowledge of the city. When they think they have an acceptable compromise they agree. When applicants won't accept this then the city requests a report from one of a list of consultants. The by-law requires that a report is produced if there is no compromise, i.e. it allows discretion.

¹⁶⁷ §17 Bau-GB states that a 'stop' notice or order runs for 2 years and can then be extended for a further year.

¹⁶⁸ The Länd Building By-law - Landesbauordnung (BauONW) - which is similar in all Länder, specifies that the design of a building has 2 parts: shape (relating to the planning law and urban design impacts); and architecture, which covers design. §12 states "Buildings must in form, scale, proportion, material and colour, be designed so that they do not seem ugly." (Translation: J. Wagner). In other words, the saying is, everything is permitted if "Lieschen Müller (the average, educated, non expert) er vent nicht schlecht" (he isn't made sick).

'rules' to freeze the situation and give themselves more time¹⁷⁰. This raises a nice debate, returned to in Chapter 13, about reactive -v- proactive roles, and the need for reflective delay in planning. In the event this seems not the reality here. Undeterred by such response, one developer seemed to know how to 'play the game', finding a solution for Klienstadt which persuaded the city to break its own rules and grant permission. Thus the door was opened to improve the 'quality of the permission' - to getting more value from the site. Speculation, the avoidance of which is one objective of the regulations, seems present. Whilst not admitted as deliberate, little action seems to have been taken by the developer to prevent an eyesore becoming a hazard. With public perceptions of this and related pressures on the municipality enhanced through media interest, a form of lobbying could be said to be at work (see below). The ground prepared, the 'real' application appeared. Dressed to suit the still indeterminate B-plan proposals, in reality it almost doubled the notional retail limits and, as a sop to social housing policy, added a large number of apartments. In this guise Klienstadt found justification for breaking both existing and proposed B-plans, related 'rules' and Guidance notes, and permitted the development. All that remained was to play out the appropriate time scales necessary, and gain the support of both councils, for this to suit the records.

Whilst the eventual solution in this case came from a firm of developers and their architect, the issue of lobbying leads into the possibility of the developer having an 'inside track'. All others lost interest when they knew a new B-plan was in prospect, which was not in line with the Building Department's aim to retain interest. Both building and planning officers saw their jobs as subject to heavy political influence. The building officer considers all 'rules' to have been completely disregarded and the planning officer admits his task was to devise a legal way to permit the development, adding that this was especially wanted by the politicians. The developer's willingness to go along with the necessary window dressing for two years to achieve all of this suggests either the possibility of some form of informal arrangement or that inside knowledge was being made available to them. Given the context of German development, this does not seem unusual.

Clearly the decision process was not plan led nor, apart from some vague idea that the building department 'knew' about demands and trends for retail space, did any clear city policies guide this. In the end it was a mixture of inter-departmental and external negotiation which enabled the 'rules' to be supplanted by a pragmatic decision led by a developer who, apparently, knew how to 'play the game'. A mix of the policy and negotiation models may embody an element of manipulation to typify this case with the ultimate decision possibly satisfying various ad hoc, even forced, objectives.

8.3.2 *Practices - locating the decision and process*

Presumably the regulations governing retail space impacts were instigated by concern for local com-

¹⁶⁹ This is pure formality and diplomacy. Local councils - the small towns and villages absorbed by the city - have no actual authority in such matters.

¹⁷⁰ e.g. the planning officer confirmed that a 'stop' notice was used as one such device.

munities. But such concern seemed lost by Klienstadt, who lacked argument and evidence against increasing this. Eventually this was anyway shown to be non-existent, the permit virtually doubling their notional objection threshold. They wanted to see an eyesore cleared up and saved some face in securing this by obtaining an element of social housing. This resulted in the decision revolving around straight commercial power, being totally profit orientated and apparently breaching retail, density and design guidelines. As in other countries, aesthetic considerations may be regarded by the 'rules' as totally subjective and left completely flexible. However, this can place an unnecessary and potentially disruptive judgemental discretion in the hands of officials. Those who see the rules as 'good' may regard themselves as having a very important position to hold the line for the rules and thus ensure 'goodness'. Despite the acknowledgement that rules have been circumvented, and the evidence of negotiation determining the outcome, rules did provide a framework of checks and balances within which a major degree of discretion and judgement was exercised. Whilst the manner in which this was done is a subject returned to in Chapter 15, here it locates the decision process to left of centre, giving this the overall position shown in quadrant 'C' of the matrix. The municipalities' internal machinations and the developer's actions were all far from clear. Since *due process* was given lip service, transparency scores 3. Driven by markets, the local community eventually got the site cleaned up, even if its degradation might have been somewhat contrived, and they acquired desirable facilities. But these were not the result of any plans or policies. Equity therefore also scores 3.

8.4 The German development decision process

Although the German study suffers from too few cases, municipal officers and politicians were surprisingly open and willing informants. Developers and private professionals proved somewhat less forthcoming, but overall the quality of the information was high, extending well beyond the cases themselves. These, it will be recalled, were regarded merely as windows of opportunity through which to investigate permit decision processes (4.6.1). Contrary to the views of David (1986, 29) and Hooper (1989, 283), the landowner/developer is not seen as dependent on the municipality. Indeed both cases suggest at least modest public-private co-operation, if not exactly partnership. Faced with commercial challenges, the German system seems to respond very much like the Dutch. Denied the open flexibility enjoyed in England, ways are found to circumvent the limiting rigidity of the legal 'rules', and seek what amounts to a notional conformance. Little attention seems paid to the fact that this inflexibility may have been intended, as reported by Dieterich, Dransfield and Vos (1991, 45), or the reasons for this. Instead, the 'judgemental discretion' employed in England, seems to have been informally adopted in pursuit of current policy objectives.

8.4.1 Decision models and German practices

Much additional anecdotal evidence relating to other cases, towns and situations supports the view that, as can be seen from Table 15, decisions do not follow the 'rules' as represented by legal plans. Current policy seems to be considerably more important, although land's 'maturing circumstances'

may even be more so. Like in England and the Netherlands, decisions are still very much the result of negotiation but, as in the Netherlands, here the negotiation model is combined with the policy model.

However, the indications from these two cases is that, besides being informed, if not driven, by other policy considerations, the permit decision process model may also be opportunistic, reflecting the English tendency toward 'opportunity sites'.

| The German permit decision process | | | |
|------------------------------------|------|-----------|--------|
| Case | Plan | Negotiate | Policy |
| D-01 | | 1.5 | 1.5 |
| D-02 | | 2 | 1 |
| Totals | 0 | 3.5 | 2.5 |

Table 15 Decision models and German practices

8.4.2 German rules -v- German interests

Although it is not possible to get any indications of a pattern from just two cases, the picture presented by the matrix (Figure 35, p.155) confirms that there is a major requirement for flexibility when considering development and redevelopment applications. This results in a tendency for 'rules' to be subjugated to the negotiation of political and commercial interests.

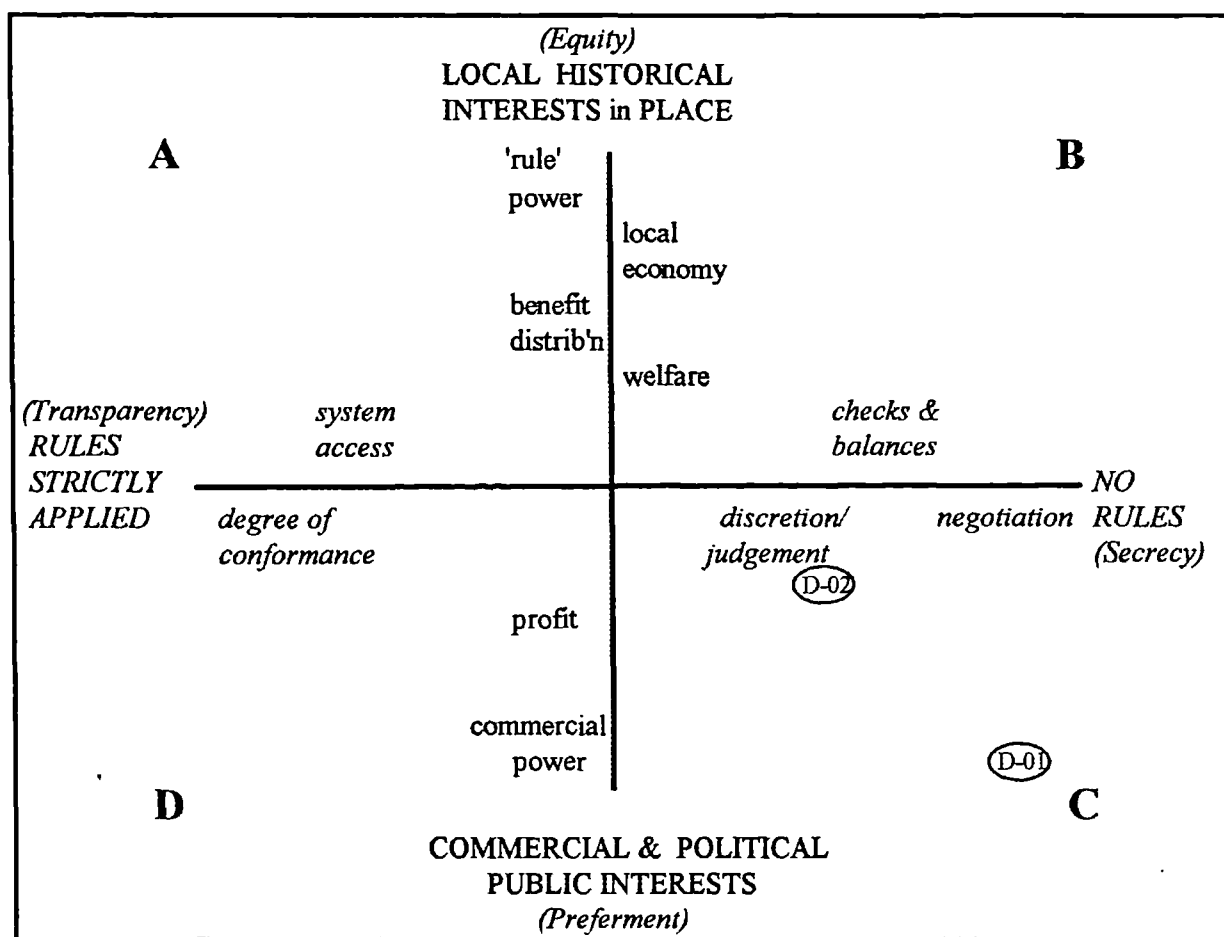


Figure 35 Matrix of rules, interests and power in German land use decision making

German practice, it seems, may be very similar to that found in England and the Netherlands. As in England, there may be a tendency toward satisfying commercial and political interests and, while responsibility for decisions is not as clear as in England, it is somewhat easier to see where and how they are taken than in the Netherlands. Serving these, the discovery that technical officers have a *de facto* duty to encourage development to the city, is important. It points to the search for commercial-

governmental concord and provides further evidence of a breakdown in *due process*. Once again this links transparency with 'rules' and equity with local historical interests in place, as in England. Emphasising the importance of local connections, it also shows there to be different networks of interest in different layers of both formal governmental and commercial structures, as well as society at large. If anything, the term 'autocratic', as applied to local government, seems more suited here than in the Netherlands, a charge perhaps difficult to level at local English political direction.

8.4.3 Ranking of factors in the German decision making process

| //German Cases D-01 D-02 | | | Count | Total | Av wt by | Av wt all | Rank by | Rank by |
|---------------------------|----|---|-----------|--------|----------|-----------|---------|------------|
| Factors | // | | of factor | weight | count | 2 cases | Count | Av Wt of 2 |
| Rule manipulation | 3 | 3 | 2 | 6 | 3.00 | 3.00 | 1 | 1 |
| Long process of change | 3 | 3 | 2 | 6 | 3.00 | 3.00 | 1 | 1 |
| Regeneration pressures | 2 | 3 | 2 | 5 | 2.50 | 2.50 | 1 | 3 |
| Negot'n based process | 3 | 2 | 2 | 5 | 2.50 | 2.50 | 1 | 3 |
| Rules over-ridden | 3 | 2 | 2 | 5 | 2.50 | 2.50 | 1 | 3 |
| Developer tactics/rules | 2 | 2 | 2 | 4 | 2.00 | 2.00 | 1 | 6 |
| Market pressures | 2 | 2 | 2 | 4 | 2.00 | 2.00 | 1 | 6 |
| Rule & policy conflicts | 2 | 2 | 2 | 4 | 2.00 | 2.00 | 1 | 6 |
| Lobbying | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Covert process | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Pre-negotiation | 1 | 2 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Other agenda | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Corporate driven | 1 | 2 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Image promotion | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Policy based process | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Societal change | 1 | 2 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| 'Deal' arranged | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Technological change | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Media influence | 2 | 1 | 2 | 3 | 1.50 | 1.50 | 1 | 9 |
| Town plan out of date | | 3 | 1 | 3 | 3.00 | 1.50 | 21 | 9 |
| Policy issues | 3 | | 1 | 3 | 3.00 | 1.50 | 21 | 9 |
| Investment interests | 3 | | 1 | 3 | 3.00 | 1.50 | 21 | 9 |
| Individual driven | 1 | 1 | 2 | 2 | 1.00 | 1.00 | 1 | 23 |
| Speculation | | 2 | 1 | 2 | 2.00 | 1.00 | 21 | 23 |
| Infrastructure change | 2 | | 1 | 2 | 2.00 | 1.00 | 21 | 23 |
| Post negotiation | 2 | | 1 | 2 | 2.00 | 1.00 | 21 | 23 |
| Political pressures /el'n | | 1 | 1 | 1 | 1.00 | 0.50 | 21 | 27 |
| Economic issues | 1 | | 1 | 1 | 1.00 | 0.50 | 21 | 27 |
| Rules frame process | | 1 | 1 | 1 | 1.00 | 0.50 | 21 | 27 |
| Local rules followed | | 1 | 1 | 1 | 1.00 | 0.50 | 21 | 27 |
| Environmental issues | 1 | | 1 | 1 | 1.00 | 0.50 | 21 | 27 |
| Political issues | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Private interests | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Appeal proc. important | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Political interests | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Institutional driven | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Jobs | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Transparent process | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Planning gain | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Corruption | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Cmmnty interest/benefit | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Planning issues | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Plan & rule based proc. | | | 0 | 0 | 0 | 0.00 | 32 | 32 |
| Plans followed | | | 0 | 0 | 0 | 0.00 | 32 | 32 |

Figure 36 Factors in the decision making process in 2 German cases

As in England, analysis of the table of factors (Figure 36, p.156) highlights rule manipulation as of prime importance in these two cases. Ranked equally with the long process of change, which took on

rather less significance in England, it suggests that German plans and rules may be major inhibitors of the development process, potentially limiting its ability to respond to regeneration pressures. These held similar weight in England and are returned to in Chapter 15.

Recognising such rule / policy conflicts, it is perhaps not surprising that, led by market forces, developers seem to invent strategies and tactics for capitalising on these. But it is interesting that these appear more prominent than in England. Likewise, in these circumstances, lobbying, pre-negotiation, and other agendas - all holding similar importance in both countries - can all be expected to be present in a process which uses the media in playing to the need for a good political image in responding to social and technical change. Good business opportunism, one might think, gives corporate and investment interests the driving wheel where out of date plans fight with policy concerns. The importance of individuals in this process, while ranked lower than in England, is a topic returned to in Chapter 16. Together with party politics, economic, environmental, and planning issues, amongst others, their apparent lack of importance in Germany receives more detailed consideration there.

8.4.4 Indicators of transparency and equity

Although not much store can be placed by the findings of only 2 cases, it is interesting that the level of transparency appears a little greater than in England. However, given the evidence of the planning and other officers, this may be an overstatement.

| 2 German cases | | |
|----------------|--------------|--------|
| Case | Transparency | Equity |
| D-01 | 5 | 0 |
| D-02 | 3 | 3 |
| Total | 8 | 3 |
| Ave | 4.00 | 1.50 |

Table 16 Transparency & Equity Indicators

Conversely the comparative level of equity is way down. This is perhaps congruent with the highly corporatist situation which appears to exist. What seems to have happened is that, faced with changes which outstrip the capacity of plans and regulations to keep up, politicians have assumed that they have the electorate's mandate to make ad hoc policy decisions which override the rules without properly respecting, perhaps not even understanding, the protections required for the delivery of equity that these are supposed to offer. What is of concern,

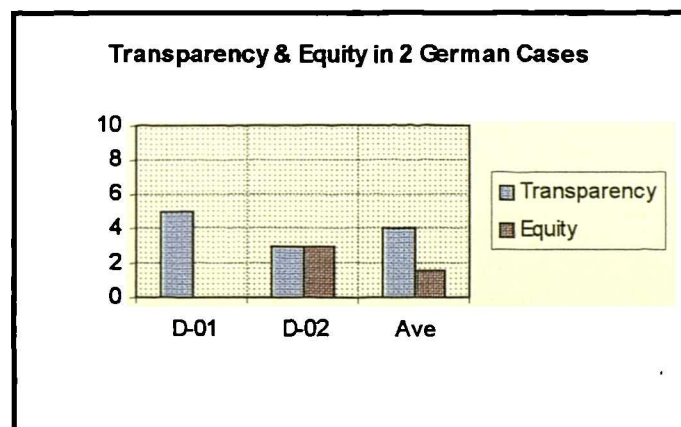


Chart 3 Transparency & Equity Indicators compared

is that their professional officers seem well aware of and to object to this, but feel powerless to do anything about it. Following *due process* would seem to have become a dead letter. In contrast, by relying on the guidance of its planners, England may be more conscious of transparency and equity.

Italy

It was not until 1865 that Italy was united. Industrialisation arrived in the 20th. century, and then mainly to the north, leading to waves of migration to this area, mainly from the south and the islands of Sicily and Sardinia. After World War II, all Italian communes were required to make financial plans. But many got progressively into worse and worse debt. With an increasing number being declared insolvent and their affairs being managed directly by the State. In 1979 the State paid these off. Today municipalities are financed 70% by the State and 30% from their own revenue, e.g. garbage collection, fines on irregular buildings, 'oneri' ¹⁷¹, and (from 1993) a new form of property tax based on a percentage (usually circa 5/1000) of the cadastral ¹⁷² value (previously property taxes went to the State). As a basis for local financing, each municipality is classified by the State according to number of inhabitants. Guidelines specify the number of municipal employees by population size. However, the State effectively controls this, requiring local employment plans to be state approved.

Under Italy's proportional system of political representation, the Sindaco (Mayor) is directly elected. Usually his Assessori (assistants responsible for specific areas of administration) are also normally elected (as part of a team), but they may be elected by the council either from among their numbers or from outsiders (Tedone 1993). For example, in one small town the municipal elections were for a 'programme' rather than a party. Several people from one party could stand with programmes in opposition to one another. There could even be several (2 or 3) lists, with party coalitions under each. So, the election used to be for the programme (with the personnel to execute it) NOT the person or party. However, since the referendum of 1993, the system has changed so that votes are all for the person - the mayor - who chooses his collaborators from whichever party he wants. However, the chief administrator (Town Clerk /CEO) is not selected by either members, giunta ¹⁷³, or mayor, but is

¹⁷¹ 'Oneri' are payable to the municipality on construction (oneri di costruzione), which are like a tax on buildings, and on urbanisation (oneri di urbanizzazione), which are supposed to be a contribution to servicing areas newly urbanised. To avoid these taxes building works are often not fully 'completed', even though the properties will be occupied, or works are carried out without permits.

¹⁷² i.e. relating to the *cadastre*, the legal record of property holdings and values, similar to the English *Land Register*, but maintained primarily as an instrument for fiscal levies.

¹⁷³ The giunta is the group chosen by the electorate to govern city affairs. They need not be, and often are not, from the same political party. It comprises the Sindaco (Mayor) and a number of Assessore (elected councillors who serve as executives). Responsibility for various commissions administering the municipalities affairs is divided between them. Sometimes the electorate specifies which Assessore is responsible for a particular function, when alliances are made between individual members to promote a particular programme under the leadership of a named mayor. But they can also be appointed by the mayor or by the parties between them.

nominated by the State. (Interview with Sindaco, 26/05/93).

With no single system for its 8,091 communes, Italy has evolved a complex and complicated framework of planning and development control 'rules' which emanate from its 1942 Planning Act. These are further differentiated by new legislative and political initiatives which have moved the emphasis from expansion and development to renewal and environmental control. The search for a more effective planning system has increased co-operation between public and private initiatives in guiding large-scale urban renewal. Growing awareness of the environmental impact of any major development has (notionally) produced an increased determination to tackle this. Problems of effectiveness, accountability and co-ordination occur not just with particular proposals, but lie at the heart of the whole machinery of planning (Malusardi and Talia 1992).

Belief in the rational plan, legality and supporting regulation, prevailed until the late '70's / early '80's. Politicians, it would seem, sought social and market control through regulatory planning powers, administrators were empowered by these regulations and third parties and the general public sought only better living conditions from them. In this it appears that law 1150/42, the general law on T&CP, was used to support political ideology, although in Rome and Southern Italy the 'rules' were often overridden.

Financing politics

When a party wants money, they look to see what 'allocations' they have in the PRG¹⁷⁴ and then seek a developer/constructor to take this on. The party then appoints one person, possibly the Assessore, to negotiate a deal. This may result in a fixed sum or one related to subsequent values. Half the payment is to be made when the development permit (concessione edilizia) is approved by the commune and half when this is ratified by the Region. The first 50% has to be paid at risk since, if the Region does not ratify, then this could be lost. Nothing can be written down, so the developer is exposed to the party representative being honest in what the deal is and what payments are received. Coercive powers of rules, regulations and administration can be used to ensure the developer pays. To protect against possible dishonour of the local party representative and the risk of regional non approval, the developer arranges similar contacts at regional level (they benefit from the payments as well.). This person is made fully aware of the details of the deal and can thus provide a monitoring function to protect all interests.

Italian Developer 24/06/93 (Interview notes at Appendix 8)

Figure 37 Italian developer's expose of politico-planning

Briefly, planning permission (a 'concessione') is required for the carrying out of any development of land, including subdivision, fusion, or any material change of use of existing buildings. Planning applications are sent to the Planning Authority (Commune) who must have regard to the Statutory Plan and to any other material considerations before giving or refusing permission. If permission is allowed, the person requesting the consent is obliged to pay a tax proportional to the specific type of development. If permission is refused or conditions are not acceptable, the applicant can appeal to the Regional Administrative Tribunal, (the *Tribunal Amministrativo Regionale* - TAR), which may hear any complaint against the administration.

By 1982, under the same influences which spawned British Thatcherism (Catella 1993a), the political climate had changed. Faced with public disenchantment of its outputs, a new national and local po-

litical philosophy of planning had emerged. In principle, master planning, urged by the political far left, remained the goal. In practice regulation via single project developments became accepted, exposing the system to what, as Figure 37, p.159 illustrates, the Italians euphemistically term '*tangentopoli*' or '*tangenti*', a form of corruption.

With the help of three RA's, five cases were investigated, two in the 'wealthy' north, three in the 'poor' south, viz:-

| Case | Dev. Type | Description | Site Type | Decision |
|------|-----------------------|---------------------|------------|---------------|
| I-01 | Retail | Hypermarket | Redevelop | Use change |
| I-02 | Commercial | Offices, showrooms, | Redevelop | Use change |
| I-03 | Leisure | Hotel | Greenfield | Use change |
| I-04 | Commercial/Industrial | Clinic | Greenfield | Use change |
| I-05 | Residential | Flats | Redevelop | Density shift |

Italy's elaborate and contradictory framework creates not a single planning system, but many different models (Cin and Lyddon 1992). This makes it a difficult country in which to nail down things like 'rules' and 'responsibility'. Indeed, with "... *one of the most complex legislative planning frameworks in Europe...*" (RTPI 1991) obfuscation often seems to be the order of the day. Consequently, the case synopses which follow are somewhat more detailed than elsewhere. Their intricate and complicated stories in a sense serves to emphasise the generally unclear nature of a system in which 'due process' seems very much an 'also ran'. Given the paucity of literature on, the difficulty of, and the numerous Italian terms and acronyms used in, Italian development control, to help readers appreciate the context in which some observations are made, this chapter is heavily annotated.

9.1 Luigi's unwanted Hypermarket (Case I-01)

| <i>DETAILS -case I-01</i> | | | |
|---------------------------|--|-----------------------|---|
| Site area: | 2 Ha. | Site Type: | Redevelopment of factory |
| Dev. Type: | Retail: Hypermarket | Location: | Central residential suburb, 3Km city centre |
| Planned use: | Clean industry | Policy use: | Industrial |
| Actual use: | Vacant print works | Outcome: | Use changed BUT no formal change of PRG |
| Project idea: | ? | Application: | 1987 |
| Decision/s: | 1988,89 | Decision type: | |
| Actors: | Owners, Developers, Mayor, Heads of building, .. planning, traffic depts | Agencies: | Region, CofC, Council, Giunta, Hospital, Green party, Adj. municipality, |

From the late 1970's consumer pressures and competition to 'modernise' increasingly shaped town and regional policies in Italy. Structural change in the early 1980's influenced site availability and added local urgency to political expediency. Past, present and future long term planning fell prey to this in the mid '80's, enabling liberal interpretation of laws and plans to define use and, in the late 1980's, permit at least one development completely inconsistent with the town's 1959 PRG.

However, by the early '90's the project's enormous commercial success led to local and wider public complaint, encouraging politicians once again to seek greater development controls. The case exposes tensions between commercial initiative and planning control, and between town and region.

¹⁷⁴ PRG: *Piano Regionale Generale* or municipal master plan defining broad, overall land use.

Time diagram - case I-01

| 1959 | 71 | 78 | 80 | 83 | 85 | 86 | 87 | 88 | 89 | 90 | 91 | 92 |
|------|-----------------------------|-----------------------|-----------------------------|--------------------------------------|------------------------------|-------------------------------|----------------------------|--|--|----|----|------------------------------------|
| / | / | / | / | / | / | / | / | / | / | / | / | / |
| PRG | Regional law on competition | Commune retail report | Regional Council indication | Industry closes PPA gives use change | Competitor opens Site bought | Council say Yes Giunta say No | Region directs Yes Appl'n. | Appl'n to extend & demolish Region appeal to TAR refused | Town vote not to localise in centre. Store opens | | | 3.5 m clients p.a. 10,000 cars/day |

Synopsis - case I-01

Around 1978 a report on the region showed it to be under provided with big stores, supermarkets, mini-markets, etc. compared with other regions. A regional 're-balancing' policy was devised aimed at replacing commercial hierarchic city structures with 'territorial commercial independence', i.e. to free the region from dependence on major city centres for these facilities. In 1980 the region published commercial and town planning indications¹⁷⁵ as a common basis for municipalities, operators, social forces and investment in transforming the distribution system. In the mid '80's a French owned superstore opened on the suburban periphery. Its instant success lent weight to regional policy, but increased the fears of small shopkeepers that they would be unable to meet such competition (choice of attractive goods, low prices).

Soon after, recessionary shock waves hit the town. Knock-on effects from the closure of its largest employer caused numerous minor closures, including a print works. It occupied a 2 Ha. site, circa 3Km. from the town centre, zoned in the regional plan (PRG) for clean industry within a mixed area. The site fronted a main road opposite a major hospital and bordered quality residential roads.

It is not clear where the idea of the hypermarket came from or who discussed it with whom in the municipality. However, as the print company was itself owned by a major national publishing house, high level contacts were possibly involved. While fixed zoning limited the flexibility required to change from industrial to retail use, the region's retail distribution programme was being established and the regional president was a town councillor. With the implementation timing plan (*Piano Pluriennale di Attuazione* or PPA) also being revised, other regulations were seen as 'pliable'. So, although the site was not included in the bi-annual commercial plans¹⁷⁶, it was found possible to use a legal procedure integrating the commercial buildings plan (*Piano Edilizia Commerciale*, or PEC) with the PPA in order to change the destination of the site to retail without the need to go through variation (*variante*) procedures (IT-01/4 1993)¹⁷⁷.

Although the commercial plan did not envisage shops, the site was now included in the PPA for retail use. On this basis, in 1985 an Italian supermarket chain agreed to buy it, subject to all permits being obtained by 31/12/87. In 1986 the idea to 'reconstruct' the building as a 5,000m² retail food store found support from the local citizens committee (*Circoscrizione*¹⁷⁸), who agreed to the integration of commercial and timing plans.

Now came an interesting slight of the planning hand. With the PRG regulations permitting 'grande magazzino' (a big store) use in industrial zones, this was generously interpreted not as 'warehouse' but *big retail store*. In the town council the Communist party were busy opposing hundreds of interventions in the PPA integration, of which this was one. With reference to the project merely noting it as a "*restoration with investment of 2 milliard lire*", debate was minimal and the integration approved.

The way was now clear for an application. When this came before council the Green Party member raised issues of noise, atmospheric pollution, and building around the hospital. But, in the wake of the popularity of the first store, in December 1986 the town council voted in favour, although no permits were authorised. Regardless of such approbation, on 23rd December the new, 5 party town Giunta refused to grant a commercial licence for the Hypermarket.

¹⁷⁵ 'Indicazione Programmatiche e di Urbanistica Commerciale' (Programatic and Commercial Town Planning Indications).

¹⁷⁶ Commercial licences are required for the operation of any business, regardless of planning permission or zoned use. Commercial plans are prepared every 2 years by the Commercial Commission specifying where activities, e.g. shops and hypermarkets, can locate (IT-01/1 1993).

¹⁷⁷ Obtaining a variante to change destination via the PPA seems to be a major difference with normal practice. Established under law 10/1977, although PPA are instruments to schedule-in uses specified in the PRG, and therefore subject themselves to the PRG, it does appear that the 1983-85 PPA effectively recognised the site as being for food retail use.

¹⁷⁸ The 'Circoscrizione' represents citizens interests in a particular area of a town. (Lex 1150-42), similar to a UK 'ward'. Like an English Parish Council, it has a consultative role, able only to express opinions on problems, projects or efforts (IT-02/2 1993)

But a Regional Law¹⁷⁹ limited the council's competence to grant commercial permits to 1,500m². Since the proposed store was 5,000m², the matter was referred to the Regional Council where, via the town's Commercial Commission, the fears of small shopkeepers and itinerant markets were now expressed. Apparently without taking account of either these or the objections of a neighbouring town, within 2 months, on 10/2/87, the Regional Giunta directed the town to issue a *Nulla Osta*¹⁸⁰ certifying that there was no impediment to a retail market. This took the technical department (*Uficio Technico*¹⁸¹) by surprise. They had anticipated long delays in obtaining the commercial permission, perhaps explaining why no building permit was granted after the favourable vote.

Now the brother of the managing director of the supermarket had formed a new, wholesale management, company. Whether this was done as some kind of device to hide the link with the former application is not clear. This new company now applied for a 3,000m² extension to the building. However, under the Battaglia law (426/1971), permission was given for the extension, taking the retail area now approved to 8,000m². On the basis of seeking to achieve correct respect for laws, including the programming indications, the Regional Giunta claimed that these permits had not been given in accordance with the Regional *Nulla-Osta*, this being for 5,000m² and not 8,000m². It applied to the Regional Tribunal for this increase to be set aside. But the TAR found against them both on the grounds that the Battaglia law allows such typology transformation and that the Regional *Nulla-Osta* was outside the scope of Regional Planning.

In the interregnum various departments and commissions, like the building dept. for the quarter, the private building dept., the statistics office, the health commission, fire brigade, sanitary services, department of transport, and the mayor's office, busied themselves with appropriate internal reports. But the only supporting documents on file were a technical analysis of the location and description; capacity of building in people, parking, a traffic study from towns dept of traffic and a market study re the number of retail applications which had been made inside the city. In the main it seems that most of these were supportive of the project. Oddly no consideration appears to have been given to, noise, refuse, pollution and other environmental impacts. The files also reveal no agreements of a planning gain nature (or at all) which could have brought other tangible benefits to the location and city as a whole. It seems that the implementation of regional policy was sufficient in itself.

On 10th June 1988, with clear building permission for an 8,000m² retail scheme and a commercial licence to operate it when built, application was made to demolish the old premises and develop new. Approvals were given for demolition in October and for the new building in November. With its full complement of permits, the site was sold to another French Hypermarket chain. It opened a year later and within 3 years was attracting 10,000 cars per day and 3,500,000 customers annually.

Although taking a little while to become manifest, the Hypermarket created enormous problems for the town which remain unsolved today, viz.:-

- driveways don't accord with plan (10cm from corner not 8m)
- noise from trucks is detrimental to recovery of hospital patients.
- pavement gradients excessive, dangerous for pedestrians and disabled, especially in rain, snow and ice.
- goods left outside, drinks under sun, rat infestation, house prices down 400,000 Lit/m² (£200/m²)
- ingress/egress problems to underground car park (single file) nearby itinerant markets, small shops & dairy killed off by Hypermarket's low price policies. 24 hour noise from trucks, compressors, fork lifts.
- road problem only partially solved by traffic lights.

Perhaps in anticipation of this, in December 1989 the town voted that commercial centres 'can't be located' in the centre of the city, adding that such decision should not be retroactive.

Figure 38 Synopsis of case I-01 - Luigi's unwanted Hypermarket

¹⁷⁹ Law 426 of 11 June 1971 only allows towns with a population of less than 10,000 jurisdiction up to 400m² floor area, above this population it increases to 1,500m².

¹⁸⁰ The direction to issue a '*Nulla-Osta*', or general certificate that there are no obstacles or impediments to some course of action proceeding. This can apply equally, for example, to being excused from military service, changing the use of a building in an historic zone, or proceeding with a major new development.

¹⁸¹ Split into department, the *Uficio Technico* handles municipal building, planning and related matters. It is to one such department that development (building) applications are made.

9.1.1 *Issues and processes*

Informed by late 1970's socialist ideology, the regional assessore saw desirable new commercial facilities being located to serve profit motives rather than widest public access. City centre and other sites, at that time preferred by developers and retailers, satisfied the demands of some consumers but limited the opportunities of others. With the balance of interests at city level differing from those of the region, the policies promoted by the region cut across the city's planning authority and responsibility. Yet at both levels politicians were concerned to address consumer demand, regional image, and competition from other regions/cities. With city and regional government having different political colours, a fight for control of commercial affairs and who would be seen as providing the public with the new facilities, began. The 'generous interpretation' of poorly defined rules, facilitated Circo-scrizione speculation that corrupt agreements took place between Christian Democrats, Socialists, and developer. Indeed, under pressure to secure all permits by the end of 1987, the developers did seem to receive privileged treatment from the municipality.

The case can be separated into five separate phases, each with its own process. In phase 1 consumers, regional image and competition from other regions, are all features of the market. Politicians respond, attempting to satisfy the consumer orientated electorate and develop policies to achieve this. Rules have no part to play. In phase 2, economic and social forces act both directly and through the process of structural change, on the retail property market. Together they impact upon and are addressed by commercial rules via politicians. At the same time they interact with planning rules which are themselves directed by politics. Phase 3, with policy concerned for job creation and the first super store's success driving demand, sees the market acting on politics to interpret the rules in order to accommodate this. Rules are manipulated to serve the interests of both politics and markets to such an extent that they have no real value in themselves. During stage 4, informal 'game rules' seem to maintain a momentum toward granting all approvals and realising development. Uncritical internal support, non recognition of objections, commercial and political manoeuvring, and the ability to impose political will against political opposition, all emphasise the importance of politics at this stage. The impartial observer may be inclined to suspect the process as one of consolidating some deal which had been done between developers and politicians at an earlier stage. In seeking popularity, politics - and hence policy - is influenced by the market via the electorate, exerting its will on rules so that they can serve market requirements. Developers, representing the market, seek scheme and profit enlargement, while third party considerations are overlooked as the administration provides facilitating reports. The final 5th., realisation phase, emphasises the importance of location for developers and operators. It also highlights problems inherent in the lack of relevant skills, the municipality apparently employing insufficient professionals (IT-01/DS 1993). If the French retailer was effectively behind the process of securing the change of use, it also indicates an important imbalance in capabilities between municipal and development teams, and the importance of well experienced, informed and

skilful negotiators. In itself this may also point to the power of attraction which a commercially well located site may hold, making this a key factor in influencing the decisions at each stage.

Conversely, if not perversely, a new process now commenced. With the hospital and local public reacting against the worst features of the development; with general public interest in environmental improvement growing; with the developers concerned only with the maximisation of profits; and with the administration only able to play a compliance monitoring role; the re-exercise of control over commerce can be seen as a political weapon wielded to impress the public. Unfortunately there is no indication of how, or even if, this was pursued further, neither is there mention of planning or building legislation being used for this purpose.

Although the site was, and still is, zoned in the PRG for 'clean industry', departure from the plan has produced a Hypermarket in a hospital 'quiet' zone without the need for a variante. Noise, fumes, smells and rodents should have been environmental issues, and regional involvement has ignored substantial objections. All of this has taken place without any apparent comment or advice from the officials who are supposed to administer the 'rules'. An important difference with normal practice is that a variante was not needed to change the site destination, this being done via the PPA. The extent of regional involvement may also be exceptional. Although it may not be unusual, it seems peculiar for seemingly substantial objections to be completely ignored, as would appear from both files and interviews; for example, objections from the Commercial Commission (no zones available or good for a Hypermarket), the adjacent Municipality (competitive imbalance), the Green Party Councillor (noise and atmospheric pollution + building around hospital) and citizens (official hearsay).

Thus three related issues stand out; the making and observance of policy in response to market pressures; the politics of re-election; and some form of commercial/political 'deals'. Although the first may have a somewhat different motive from the other two, which essentially seek to retain power, all were driven by a common underlying factor. Profit is the bottom line.

Throughout all phases the decision process seems most to resemble the policy driven model, albeit distorted at times by external direction, with behind the scenes negotiation making this reminiscent at times of English policy guidance or appeal processes. While the market informed both developer and regional policy, conflict arose between region and town *giuntas*, town council and town *giunta*, and planning and commercial 'rules' over the market's significance. Although not explicit from the case, in deciding how to proceed the developers probably negotiated the form of the application with region, officials and, since the *giunta* were opposed but apparently the two majority parties in favour, the council (or the two parties). With no power over town 'rules', the region addressed these through policy to both council and officials, the latter 'interpreting' these 'rules' to enable first the council to approve the permit and second the region to direct the *giunta* to do likewise. Having got its way the region then attempted to control the town rules further via the TAR, but to no avail. Once developed, side effects of the project's success led to public concern exerting new influence on the town.

9.1.2 *Practices - locating the decision and process*

Securing and holding power to influence the interpretation of plans and other 'rules' for electoral and profit goals, seems to have been the name of the game here. The role of administrators was to find ways to interpret the regulations to this end, despite the growing fears of small shopkeepers and some other third parties. Through loose wording and an inappropriate hierarchy of control, rules were able to be seen as interpretable controls. Of these, Commercial 426/71 and the building regulations to the PRG, were key.

Whereas the motivation of the Regional Giunta and the councillor interviewed were to be of service to the community, the Regional Giunta member was concerned to satisfy the needs of shopkeepers and solve the commerce problem. Conflict arose because the town Giunta tried to follow a general five year plan, while the Regional Giunta opted for its general programming indications. The Circo-scrizione simply tried to represent various local interests from time to time. In terms of planning and related policy, the city council worked to their own ideas and policies which seemed not informed by anything specific, despite the region's retail study.

The council voted for a project of 2 billion Lira, but this development is worth much, much more. The use was changed from 'clean industry' not to a warehouse but a *big retail store*. The permit for 5,000m², became 8,000m². And 'reconstruction' turned into demolition and rebuilding. In the councillor's words, it seems the developer benefited from a "*convenient interpretation of urbanisation laws.*" He claims this is just one example of the interests of owners and developers prevailing, despite local public, shop owner and itinerant market interests, all of which were damaged. He believes in regulations, but sees development regulations as not respected (IT-01/4 1993).

Muddled 'best intentions' seem to have been directed in the general public interest, but served private profit more. Conflicts between different sets of rules and attempts to apply policy 'rules' resulted in ways being found to circumvent plans and regulations. With the final decision being that of the council, any degree of judgement is tempered by the need to demonstrate at least some degree of conformance. All of this hides any negotiation which might exist. Accordingly, this decision is seen as spanning quadrants 'C' and 'D' of the matrix, toward their upper sectors. Individual processes may be open to inspection and the information may all be available if one knows how to get at it, but the conflicts and interpretations obscure any *due process* which may be present. Transparency scores 3 and, with local interests ignored, equity rates 1.

9.2 'Paperone' - an alternative view of the use of Town Planning (Case I-02)

In this case, investigation of an hotel project opened a Pandora's box of related applications, approvals, refusals, and intrigue which led to this story of an important cultural and political battle. During the '70's and early '80's, Italy's political left were heavily involved with town planning affairs, proposing legislation against single development projects. In this period major firms saw much of their political power diminish. But, by the beginning of the '80's the culture of the left was itself on the

wane¹⁸². In this case it failed to see the possibility that political control of an important town, 'Primo', could be lost through a development project. Conversely the site owners, 'Paperone', a major industrial organisation, saw the project as an opportunity to regain power.

| <i>DETAILS - case I-02</i> | | | |
|----------------------------|---------------------------------------|-----------------------|---|
| Site area: | 55 Ha. | Site Type: | Redevelopment |
| Dev. Type: | Mixed | Location: | 1.5 Km. from town centre |
| Planned use: | Industrial | Policy use: | Industry till 1984, then polyfunctional |
| Actual use: | Vacant | Outcome: | Use changed |
| Project idea: | 1982 & 1985/6 | Application: | 1982, 1988, 1991, 1993 |
| Decision/s: | 1982, 89, 92 | Decision type: | Policy & Negotiation |
| Actors: | Developer, Mayor, Architect, Engineer | Agencies: | Council, Region, Media, |

| <i>Time diagram - case I-02</i> | | | | | | | | | | | | | |
|---------------------------------|----------------|----------|---------|--------------|-----------|----------|----------|------------|--------------|--------|-----------|----------|-------|
| 59 | 70 | 80 | 82 | 84 | 85 | 86 | 87 | 88 | 89 | 90 | 91 | 92 | 93 |
| PRG | Political left | Change | Factory | Change | Study | Informal | JV Co. | Proposed | Permits OK | Region | 3rd PPR | Varianti | Hotel |
| | involved in | planning | closed | Giunta & | & not | PP | formed | PP | CORECO | OK PP | Dev.appon | Contract | idea |
| | planning | philo- | Exhibit | Mayor | published | | Study | Approve | reject | | phase 2 | signed | 5yr |
| | | sophy | permits | CORECO | | | approved | PPR /PP | New Co. | | Contract | | appon |
| | | | | void permits | | | | Dev.appon | PP changes | | approved | | |
| | | | | | | | | Consultant | PRG | | | | |
| | | | | | | | | Left want | general plan | | | | |

The property lies between a railway and residential areas, close to the centre of Primo. Built before the war, the factory was zoned in the 1959 PRG for industry, but technological advance, economic downturn, and 'rationalisation' caused its closure in 1982. Yet to Primo's left wing government it was still a place of industrial employment. Paperone had a problem. No market existed for their large, outdated buildings. To retain the not inconsiderable asset in their accounts they needed to find realistic new uses, change the destination, and redevelop. Gradually and informally, over a period of years, their strategy used the project to rebuild their power base and demonstrate the superiority of private enterprise over socialist bureaucracy.

| <i>Synopsis - case I-02</i> |
|--|
| <p>Soon after the factory closure Primo was in danger of losing an important international exhibition. Paperone proposed their site for this, but the 'rules' became a double edged sword. Seen as the administrator's base of power, together with the plan they were very difficult to amend. However, a Regional Law (56/77) provided a legal means for Primo to negotiate an agreement with Paperone. This permitted partial demolition and rebuilding for the exhibition. But the regional administrative agency (<i>Comitato Regionali di Controllo</i> - CORECO), refused to approve this on procedural grounds¹⁸³, nullifying the council's decision. After much delay and aggravation, a new agreement was reached and subsequently approved, with Paperone carefully making individual applications to the Health Commission (<i>Commissione Igienico Edilizia</i>) for each step needed to prepare the site and secure permission.</p> <p>Paperone took note of this near set-back. With employees on the council, 'place men' in strategic administrative posts, and ownership of the main newspaper, they began the battle for image and supremacy. A meeting of internationally famous architects to consider long term solutions to the problem was organised and, sidelining both councils, results were presented directly to citizens. <i>"The buildings will not be demol-</i></p> |

¹⁸² According to Catella (1993a; 1993b), this was for various reasons, e.g.: disillusion with Italian town planning (no great results), international tendency to de-regulation, laws seen as not being so efficient, not possible to keep vacant areas in town centres, need to 're qualify' the cities, demonstration by private enterprise of how to manage the solution of problem sites.

¹⁸³ Every municipal deliberation must be verified by CORECO (Lex 56/77).

ished", they announced, *"even though it would be cheaper to do so."*

With the site now centre stage, their relentless media campaign to sway public opinion was linked with their 'choice' for the new mayor. It emphasised the search for new ideas to enable Primo to remain at the centre of economic affairs. It cut out opposition to redevelopment proposals and built its own image. In 1985 the new Giunta, headed by the 'chosen' mayor, promoted the need to conserve the town's industrial heritage and adopt a 'flexible' approach to planning.

In 1985 the site was designated as one of strategic importance and the buildings defined as structures of public interest. This meant that consent for subsequent alterations had to be obtained from the Ministry of Cultural and Environmental affairs (Art.18; 1089/39). This enabled Paperone to demand public funds to retain the buildings, emphasising again that demolition would be more economic.

Primo now commissioned an informal project to advise on alternative uses for the site. No consultations were necessary for this and the three man team of architect, economist and professor were all selected by Paperone. Nothing was ever published, but in 1986 the appropriate sectors (*Settori*) of the planning department gave favourable opinions encouraging town approval for a PP. As elsewhere, public finances were under severe pressure. Lacking funds to acquire the property or carry out redevelopment itself, Primo was equally powerless to address calls for improved infrastructure (traffic, green areas, 're-qualification' of adjacent railway area, etc.).

Possibly through, even in spite of, political confusion, in 1987 a joint venture (JV) scheme to redevelop the site was got through the council, Paperone taking 2/3rds., Primo taking 1/3rd and nominating a commission to oversee the realisation of each step of the project. The media campaign capitalised on this, vaunting the benefits of private enterprise to get positive results.

By favourably interpreting certain laws (1150/42, 765/67, Arts. 38/39/40 of 56/77, and 47/85), 'Settore VI' of the planning department now found the way to formulate a detailed plan (PP) for the site. This acted as a 'variante' to change the destination of the PRG¹⁸⁴. In further laws (10/77 & 94/82) it also found the means to address the implementation plan (PPA). These were the same laws under which the regional administration (CORECO) had voided the initial decision for the exhibition use and were to prove the instruments of eventual change.

However, much of the administration clung to its regulatory power base and, in 1989 CORECO, acting in the place of local administrators and politicians who did not wish to show their hand, nullified 2 more permits, forcing re-application. Paperone formed a new company, hiving off its share of the JV to this.

In 1990 a new law (Legge Autonomia Locali - 142/90) came to the rescue by giving the new Giunta greater local autonomy. Maintaining a favourable political regime whilst getting a good financial deal now set the game rules and, with the Giunta committed to the success of the project as a JV partner, Paperone gave posts to political place men and the like in the new Company. With the detailed plan (PP) proposals facing opposition from architects, public officials, the *Circoscrizioni* and others, outside consultants were called in to advise on them. Although they repeated many of the earlier concerns - insufficient infrastructure, lack of environmental evaluation, need for better access, absence of traffic study, absence of any assessment of green space provision - in 1990, after the prescribed period of public exhibition, the PP was approved by both council and region without major change. Having, secured the route to change the PRG, the new company now secured permission for various phases of its multifunctional centre, including the hotel.

Figure 39 Synopsis of case I-02 - 'Paperone', an alternative view of Town Planning

9.2.1 Issues and processes

As expressed by one informant, what is seen here is not specifically individual corruption, but corruption of the system. The 1959 plan merely reflected the earlier status quo. Bereft of alternative use ideas or policy to address the situation, Primo fell back on political dogma - either preserve the use or comprehensively re-plan the area. But the property was too valuable to Paperone. Using policy concern to secure the exhibition, once the temporary permit for this was obtained, the route to single site re-designation was established. Shifts in alliances weakened town and regional political opposition, temporarily to be substituted by administrators' control of 'rules'. But Paperone's commercial power which infiltrated administration as well as council, worked round this, establishing studies and using

its control of the media to orchestrate public opinion, exclude unfavourable views, and secure a change of Giunta to one more favourable to its cause. Paperone, it would seem, set the policy agenda and effectively redefined the site. By securing strategic importance and public interest designations, they then protected their property and gained access to public funds in a time of strained finances for everyone. Although not clear from the case notes, it must be presumed that the JV was a negotiated arrangement and one which was advantageous to Paperone. It helped them shift Primo's policy toward commercial criteria, and enabled them to protect their interests further via co-optation. The decision process is not easily classifiable but, given Paperone's major policy inputs, seems to lie between this and negotiation. Alternatively it might be seen as tending toward a new category of co-operative or coercive direction.

9.2.2 *Practices - locating the decision and process*

Economic -v- Political survival appears to have dictated the general game rules between Paperone and Primo, modified by Paperone's wish to overcome a negative public image. Paperone was not a real estate developer but, by capitalising on planning's change of fortune, successful redevelopment of the site presented an opportunity for it to demonstrate the supremacy of private enterprise over socialist control. Although in-fighting was present between politicians and administrators, political -v- regulatory control features heavily, the game became one of consolidating the commitment to the JV, well promoted to the owner's advantage by its controlled press. Inadequate for achieving former political objectives and incapable of withstanding contrary political and economic actions and pressures, regulations became used to further the 'new path', which totally ignored local considerations. With the new Giunta using everything available to justify their decision and support the JV, Paperone sought consolidation, administrators were happy to get back to being able to implement the appropriate regulatory controls, and the public hoped for an improved city, physically and economically. Because of this, equity scores 2. This series of decisions encompasses attempts to enforce the 'rules', sees them as setting some form of framework for the planning decision process, but recognises this as heavily influenced by and eventually directed to the securing of commercial considerations. As with I-01, the complexity and convoluted dealings are very obscure resulting in a score of only 3 for transparency. Nevertheless, these seem to be moderated toward some form of profit and decision sharing, albeit not for local benefit. Consequently the matrix location is seen as lying in the central area of quadrants 'C' and 'D' between the two (Figure 43, p.181).

9.3 Verdi's 'World Cup' Hotel (Case I-03)

Italy's success in winning the bid to host the football world cup set off frenzied activity to locate, plan, design, upgrade existing and build new, stadia, and other facilities throughout the country. This case relates how, in addressing this demand, the town of 'Verdi' acquired at least one new hotel. Envisaging ambitious expansion¹⁸⁵ Verdi's 1972 master plan (PRG) was only ever schematic, a 'non-plan'¹⁸⁶

¹⁸⁴ Lex 10/1977 & Lex 94 1982 connect the PP to the (3rd) PPA (Piano Pluriennale di Attuazione).

¹⁸⁵ Expansion has halted at around 50% of the population provided for.

defining general axes and imposing choices of detailed plan (PP) for further specifications. About seventeen PP were envisaged but by 1989 only one had been made. It also allowed land owners to make their own subdivision plan ('*Piano di Lottizzazione*' - P di L¹⁸⁷) to develop infrastructure and re-parcel building lots. The first PPA for the period 1980-83, extended to 1985. It was made regardless of the absence of PP's and included several P di L, effectively creating an oversupply of available land

| <i>DETAILS - case I-03</i> | | | |
|----------------------------|---|-----------------------|---|
| Site area: | 3.4 Ha. | Site Type: | Greenfield |
| Dev. Type: | Leisure - Hotel | Location: | Urban periphery |
| Planned use: | Tertiary (offices, services) | Policy use: | Unclear |
| Actual use: | Olive groves | Outcome: | Change from tertiary <i>lotizzazione</i> to hotel |
| Project idea: | 1987 | Application: | 1/02/88 |
| Decision/s: | 30/04/88 | Decision type: | Negotiated |
| Actors: | Assessore, Building head, Developer, Engineer, Building Commissioner, | Agencies: | Insurance Co. (bond) |

To rectify this, permissions were restricted to 50% of what was outlined in each P di L. This created 'chequer-board development where some areas had houses but no services and others services but no houses. In this case the developers, 'Ho-Te-Co', a family concern whose fortunes were reputedly founded on illicit funds¹⁸⁸, were accustomed to buying land over long periods of time in many zones once *lotizzazione* was approved, even though this made it more expensive.

| <i>Time diagram - case I-03</i> | | | | | | | |
|---|---|---|--|--|----------------------------------|----|---|
| 1972 | 82 | 83 | 86 | 88 | 89 | 90 | |
| / | / | / | / | / | / | / | / |
| PRG for twice real- isable population. <i>Lotizzazione</i> envisaged | <i>Lotizzaz- ione</i> permits 'tertiary' devpmt. | Developer buys land Replans land for offices & flats. 50% resid OK in <i>lotizzazione</i> | 'Mondiale' decision creates hotel opportunity Replan land | Application. Surrender of residential rights Building starts 'concessione' issued | Building completed and opened | | |

| <i>Synopsis case I-03</i> |
|---|
| At the beginning of the '80's, coincident with the PPA, Ho-Te-Co began assembling greenfield land within the town boundary in the area of this project. At the time one of the brothers was on the local council. During 1982/3 they signed contracts with various owners. They did not expect to build immediately, and in this case the contracts provided for a staged 25% deposit with the balance to be paid on completion in December 1986 ¹⁸⁹ . |
| On this particular olive grove site, <i>lotizzazione</i> permission for 'tertiary' ¹⁹⁰ development had been obtained by the engineer son of one of the original owners for 30,147 m ³ offices and 4,745 m ³ residential with a max. height 45m. He had been (or was) president of the commission for public works, had, in his words, |

¹⁸⁶ As described by 2 university lecturers.

¹⁸⁷ *Lottizzazione*: the private parcelling of land into serviced 'lots' or plots for development. Land owners may make their own '*Piano di Lottizzazione*' (P di L) to re-parcel land into building lots by developing infrastructure themselves

¹⁸⁸ The Assessore at the time suggested in interview that "the land was probably bought or the hotel built with drug money" and that in any event "90% of the people in (Verdi) know that the developer family's funds are founded on drug money."

¹⁸⁹ Copy of contract in municipal file lodged as proof of ownership rights in order to obtain permission.

¹⁹⁰ 'tertiary' means offices and related services and allows minimum 50% offices and maximum 50% residential.

'connections everywhere', and, as 'projectist'¹⁹¹ was part of the parcel which came with the land. Recognising the oversupply problems, Ho-Te-Co were in no hurry. However, when the 'Mondiale'¹⁹² was announced they saw the opportunity to move their land forward. It was not well located, served only by narrow roads which were congested with traffic from surrounding apartment blocks, and was difficult to find. But it was on the right side of town and relatively close to the new stadium which was to be built. Even better, substantial subsidies were available to encourage its development.

Knowing nothing of hotels they made contact with leading international hotel operators and, after negotiation, linked with one who insisted upon the involvement of their own architect. But the engineer was not to be replaced as project manager. He was now Assessore of Traffic, responsible for the town's parking and transport plan, and the other brother in Ho-Te-Co had taken over from his sibling as councillor. In February 1988 it appears that an application was made for the hotel but, with details merely written on the file cover, the application form being incomplete, unsigned and undated, this is difficult to determine¹⁹³.

In fact the architect and engineer were having difficulty getting the hotel onto the site and had to 'work miracles' to make it fit. Surface and underground parking were insufficient for the operators so additional space was 'found' adjacent to a nearby building. The permitted ratio for the site did not allow sufficient volume, even after conference rooms and swimming pool had been put underground and out of the scope of this ratio. Extra cubic metres were 'found' from the adjoining lotizzazione where there was spare capacity.

Six weeks after the 'application' Ho-Te-Co wrote to the mayor 'surrendering' the rights to residential space¹⁹⁴ in favour of the hotel. With most of the surrounding area being relatively new development, no objections were recorded and an insurance bond guaranteeing completion of the works was lodged by Ho-Te-Co. They also paid the oneri di costruzione and oneri d'urbanizzazione, both calculated on the basis applicable to the 'tertiary' zoning.

Although various 'favourable opinions' were recorded from other departments, no consideration seems to have been given to physical, spatial and other planning issues, e.g. highways, amenities, access, transport, neighbourhood impact, etc.. Such matters are, of course, notionally dealt with by the PRG. Parking, however, did seem to have been an important afterthought, the file noting a 'variante'. Presumably this deals with the extension noted above, although it is not clear whether this was requested by Verdi or Ho-Te-Co, or whether it was to increase or decrease capacity. Drawings were made quickly and decisions were taken quickly. Foundation works started illegally before any permits were issued. Blind eyes were turned. With apparently no change from 'tertiary' to hotel use ever being approved, on 30th. April 1988 a conditional 'concessione' was sent to Ho-Te-Co. It was not signed by the Sindaco (mayor) as required, but by the brother of the head of the urban building department (Assessorato all'Urbanistica e Edilizione).

The hotel opened in 1989, with uncontrolled fly parking adding to the worsening problems of congestion. The problems remained in 1993. No road improvement measures were envisaged. It is not possible to determine if the building ever satisfied the m³ or height restrictions, although it appeared that these were increased by at least the servicing equipment¹⁹⁵.

Figure 40 Synopsis of case I-03 - 'Verdi's World Cup Hotel'

9.3.1 Issues and processes

The main issue here seems to have been how to develop in spite of the 'rules', even though they did set the decision framework. As the project designer/manager (projectist) explained, even though the area was *"too small to respect all the laws"*, it was not difficult to get the concession. In his view, in a system where there are laws about everything and laws which say the exact opposite, it is not difficult to get what you want and convince everyone that you are operating correctly by citing the 'right' law. The project was of general public interest and had to be got ready for the Mondiale, possibly explaining the peculiarities in application, why no formal change of use was approved and the strange

¹⁹¹ 'projectist: rather more than a project designer or manager, the projectist is the person responsible for designing the project and ensuring that it is built in accordance with all regulations, etc.

¹⁹² World Cup football series

¹⁹³ The application date is taken from the official notes on the file itself.

¹⁹⁴ According to the engineer, 100% office space could have been obtained, but this was more difficult to surrender, therefore he had gone for some residential space in the permit di lotizzazione.

¹⁹⁵ e.g. lift gear, water tanks, air conditioning, etc.

way of issuing the concession. In itself this may have been defective. However, in the Assessore's words, *"In (Verdi) the powerful make all the rules, so they don't need to break them."* Expanding on this he explained that within six months of his taking the appointment in 1985¹⁹⁶, the vice mayor and head of the development commission went to him and asked *"why isn't anyone asking for favours anymore?"* Although there is little direct evidence to support the contention, it is highly probable that extensive negotiations took place behind the scenes between 1986 and 1988 to secure the permits. This may have been linked as a negotiated benefit in relation to the Mondiale stadium construction contract. With major inputs of public money, this appears to have been 'ringed' and shared between contractors. Whatever passed, government policy clearly promoted all Mondiale-related projects, making the decision process a mix of policy and negotiation.

9.3.2 *Practices - locating the decision and process*

Although the project was in an area of mainly new development and no objections against the hotel were recorded, consideration for the incoming residents and office users seems to have been absent. The focus was on the widest possible public benefit rather than the local community. 'Rules', whilst obviously setting parameters for negotiation, were ignored or circumvented to this end. Pushing concern for equity and transparency to one side, they each rate 2. Profit, enhanced by subsidy, and a new market opportunity encouraged the developer to use its commercial power to achieve this result. The decision appears to locate most comfortably toward the right centre of quadrant 'C' on the decision matrix (Figure 43, p.181)

9.4 Clinico's planned planning cure for Mezzo (Case I-04)

Founded in 1976, and benefiting from contracts under which patients' fees are paid by the region if their needs cannot be met by the local public sector, 'Clinico' has grown rapidly. By 1979 it operated six specialist clinics, employed 1,200 people and was a very important and influential organisation. In these times when, as the projectist stated, *"...one could gain the support of politicians by offering jobs to their clients¹⁹⁷, (Clinico) were skilful enough to gain the support of all parties"*. They had almost the entire political spectrum on their side. Further contracts direct with the state ensued and, with more clinics already in process, it was decided to build a major specialist hospital facility in 'Mezzo' along best US and Northern European lines. Although the need for this was recognised, the political climate eschewed private provision. This led to an elaborate 'dance' in which the power of rules, courts, politics and business swayed the performers first one way and then the other as the path to mutual accommodation resulted in major changes in land designation, building density, and access.

¹⁹⁶ He was forced to resign within the year.

¹⁹⁷ The people who get jobs thanks to a politician are then obliged to vote for that politician. According to one informant, subsequently the vice president of the region, it is not difficult to check whether an elector has voted for the person he/she is supposed to.

DETAILS - case I-04

| | | | |
|----------------------|--|-----------------------|---|
| Site area: | 2.2 Ha. | Site Type: | greenfield |
| Dev. Type: | Commercial Hospital | Location: | Outer suburbs |
| Planned use: | Residential services | Policy use: | per plan |
| Actual use: | Vacant | Outcome: | use changed |
| Project idea: | 1982 | Application: | 30/06/1983 |
| Decision/s: | 14/07/87 | Decision type: | legal contest (appeal) |
| Actors: | Projectist, lawyer, Assessore, developer/user politicians, | Agencies: | Municipality, National & Regional Health service, Admin. Tribunal, Council of State, |

Time diagram - case I-04

| 1976 | 79 | 83 | 84 | 85 | 86 | 87 | 88 | 89 | 90 |
|---------------------------------|------------------|--|---|---|--|--|-----------------------------|--|---------------|
| / | / | / | / | / | / | / | / | / | / |
| PRG approved | Hospital concept | Applic'n favourable | Mayor OK but Admin | Struttori & Clinico merge, give notice of appeal to TAR | Clinico advise cut back Min. of works approve Clinics to merge in new building. Minister of Public Health supports project | Aplcn goes to State Ownership proof reqd. CU favourable Council approve Modification reqd. Conditional permit from new Assesore Work officially starts | Buildings & roads '83 plans | Permit to construct roads Building officially complete | Road complete |
| Clinico Site formed & expands | Site chosen | BUT 4x permitted arca & Art 54 not met | Council OK Giunta ask Assessore to apply rules. | Giunta changed New Assesore puts proposals to mayor | | | | | |
| Land assembled over this period | | | | | Possible start of works and roads | | | | |

Synopsis - case I-04

Approved in 1976, Mezzo's PRG was somewhat sketchy, making precise site definition difficult. However, the symbols used for local residential service zones made it clear that these were different from those for services for the town or region and that the site was zoned for local residential services. These had to be in accordance with a use selected from a specified list. This did not include hospitals¹⁹⁸. Additionally, a detailed local plan (Piano Particolareggiato - PP) for services was required to be prepared before the timing plan (PPA) could be approved. But, since no local plans for services had ever been drawn up, the land could only be used for unspecified local residential services. Mezzo determined these on a case by case basis.

In June 1983 an application was made by 'Struttori', a sister Co. of Clinico, for development of 'health facilities' on 2.2 Ha. of this land zoned for 'residential services'. On this the projectist appears to have drawn in access roads which may not have existed¹⁹⁹. The recipient technical office (UT) passed a copy to the local health unit (Unita Sanitaria Locale - USL) to check compliance with Health & Safety requirements.

On 23rd. September the section of the technical office responsible for private developments, gave a favourable technical opinion, but noted non compliance with the density provisions of the town's technical standards (Norme Tecniche di Attuazione - NTA)²⁰⁰. In fact the application was for over 44,000 m³, the inverse of the ratio permitted. Also, according to the drawings, the distance between buildings was less than the permitted minimum. Neither these nor any other irregularity²⁰¹ were noted either in, or on the space provided by, the file.

Without requesting modifications, on 12/10/83 the application was considered by the Urban Commission (Commissione Urbanistica - CU), an autonomous body of professionals appointed to assess urban planning issues and applications. Drawings were also sent by the technical office to the health unit for further con-

¹⁹⁸ Hospitals were covered by section D of Art. 32 NTA

¹⁹⁹ Non main roads (except those existing) are not necessarily included in the PRG, but should be drawn in Piani Particolareggiati. No PP existed for this area.

²⁰⁰ NTA/ Norme Tecniche di Attuazione, technical norms/standards for implementation of projects. Art. 54 is concerned with churches, parochial works, social centres, etc. Applications must be for at least 5,000m², a building index of 1m³ per 2m² over max. 60% land surface with min 20% green and 20% parking and max. 15m height, applies; distance from boundaries should be H x 0.5 or minimum 7.50m; and distance from other buildings is restricted to half their combined height with min. 15m. None of the related 5 Articles addresses health facilities.

²⁰¹ Superficially several other irregularities, e.g. height, distance from boundary, etc., appear present but were not worked out during the investigation.

sideration.

In February 1984 the mayor wrote to the applicant stating that, although the CU had expressed a favourable view in the previous October, proof of land ownership had not yet been provided. Without reference to the application's technical infringements, he noted that the CU reserved the right to pass the project to the 'Amministrazione'²⁰² for them to decide "...whether the project is proposable and to consider all aspects related to an initiative which is intended to take place on an area designed for residential services". Since, in the Italian language, *Amministrazione* can mean either all the public bodies or individuals of the municipal administration, this meant that the application could have gone through the council or the Giunta and Assessore.

On 6th. April '84 the Municipal Council (*Consiglio Comunale* - CC) expressed a favourable opinion but, despite this, in July '84 the Giunta invited the Assessore responsible for development to observe the zoning rules for residential services. He either formally rejected it or, because no decision was reached within the prescribed time limit, a refusal through silence (*Silenzio Rifiuto*) applied. Whatever the case, it seems no formal communication was sent to Strutturi or their project manager.

In May 1985 Strutturi advised Mezzo that they were going to appeal to the Administrative Tribunal on 4 grounds. First, that permission had been improperly refused by the Giunta. Second, that Mezzo had not been impartial, similar consents having been granted elsewhere. Third, that health facilities can be considered residential services. Fourth, and making the assumption that the permit had not been granted because of non conformance with the set list of residential services, that, through misinterpretation (of Art. 4 of Law 10 of 1977) Mezzo was abusing its power over land²⁰³, never having mentioned the set list. Furthermore, although the law restricted residential service areas to public sector development, Mezzo had not acquired the land within the 5 years allowed²⁰⁴ and had therefore lost these rights.

Strutturi's eminent advocate won the case. Cancelling Mezzo's rejection, the Tribunal confirmed that the set list for residential services no longer applied, that these could be provided by the private sector, and that health structures could be built in these area. But they did so by reference to the technical standards, ignoring the ratio of built space to inhabitants. Rather than being prescriptive, activities of '*Comunale*' interest are permissible. However, since '*Comunale*' can mean both 'of the community' or 'of the municipality' (*Dizionario Sandron della lingua Italiana*) the local nature prescribed by the Articles referred to was widened to the town. No revised drawings to comply with the building index for density, etc., were called for. Meanwhile Mezzo's Giunta had changed and the new Assessore for urban development was an independent. He believed it wrong for doctors to be employed both by the state and Clinico (who charged the state more), often effectively being paid twice for the same job. Noting that the PRG did not comply with a regional law (LR 56/80²⁰⁵) which forbade variations unless the PRG complied with the law, he set to to address the town's planning problems.

In December 1985 he listed proposed actions to the mayor. Since the *Commissione Urbanistica* had become 'illegal', there having been no change in its make-up for 6 years when the law requires this every 2 years, it was to be changed in January 1986. To avoid too many TAR appeals on land where the specified densities (vincoli) had expired, 'temporary measures' were to be employed to enable these all to be considered together pending Mezzo's needs being reassessed and a PP prepared.

But legal technicalities prevented his proposals being given effect. Many areas had higher building ratios than the PRG allowed. To prepare conforming PP's therefore meant variations, but, as noted 'varianti' were not possible because the PRG did not comply with law. Nevertheless, based on his instructions

²⁰² *Il Ministero dei Lavori Pubblici*, 1992. p.8. Translated by S. Florio

²⁰³ During the 1970's arguments were advanced at the national level which attempted to significantly change planning procedure by expropriating all (development) land and forcing all developers to buy from the state. Under Art. 4 of Law 10 of 1977 the phrasing of the permit was changed from 'Licenza Edilizia' to 'Concessione Edilizia', to imply that the public body concedes a right to build which is not otherwise inherent in the land.

²⁰⁴ Law 1187 of 1968 provides that land for structures of public interest (including residential services) must be acquired by a public body (municipality), by expropriation if necessary, within 5 years of the adoption of the PRG. In default the owner can apply for the 'Caducazione dei Vincoli' (cancellation of these specifications) to develop privately. This law appears to have had mixed fortunes, being reinstated or reconfirmed by Act 92 of the 1982 Constitutional Council, and again by 'Sentenza' (proclamation) No. 7 of the State Council of 2/4/84. In fact to take advantage of its situation was considered dangerous and only the powerful, who could afford to appeal to the TAR, did so.

²⁰⁵ *inter alia* LR 56/80 forbade any municipality to have a variante unless the PRG complied with the law itself - a vicious circle that could only be solved by a new PRG.

(delibera²⁰⁶), that each such private application was to be considered by the council as if a PP had been prepared, 'temporary measures' were introduced whilst PP's were prepared. These 'temporary measures' were to become operative in late November 1986.

Matters now took a new turn. On 24/8/86, 3 years after the original application, Clinico advised Mezzo that its employees' hours of work were to be cut and that, due to delays in obtaining the permit, redundancies loomed. As a result of a further regional law giving force to a state law which ordered the closure of private clinics if they did not meet certain standards (LR 51/85²⁰⁷), Clinico faced imminent closure of 5 of its clinics and significant loss of contracts. A copy of the Ministry of Works' permit enabling the redundancies to be made was enclosed. This was followed on 12/12/86 by a letter from Clinico which implied that the activities of the 5 clinics were to be concentrated on this one site. According to the projectist, the national Minister of Public Health supported the project. The 'health facility' was really a hospital.

Exactly what then happened is unclear, the files are silent and informants have different memories. However, on 27/01/87 the CU gave another favourable opinion, again sent it to the health unit, and again the technical office requested proof of land ownership. Copies of notarised documents on file, which are imprecise as to boundaries, show that this was not owned until after the 1983 application and the TAR appeal.

According to the mayor's summary of 30/4/87, after the TAR's decision the application was sent to the State Council²⁰⁸, but this was not recorded on the files. However, very full minutes do record Mezzo council's approval of the project on 30/04/87. One communist councillor complained that *"Private entrepreneurs are forcing us to give up our instruments of control..."*. A month later, on 1st June, a letter confirmed this decision to Struttori but did not give the permit (concessione). Three days later Struttori requested unspecified modifications, relevant drawings being submitted on 10th. and sent to the health unit, who opined favourably on 27th.

Mezzo now asked (14/07/87) for land to be donated for the building of a public road to serve the site. Although there is confusion about which road this was, it seems it was one of those shown as existing on the 1983 application drawings. The 'concessione' was issued on 15/07/87. In place of the mayor, who had resigned, it was signed by another new Assesore, the independent one having also resigned. He had formerly been Assesore for the Public Health Service. No reference to a variante was made, meaning that the approved project was per the 1983 application. In 1988 the project manager became a member of the Commissione Urbanistica.

However, a condition of the permit was that the whole width of the road on the eastern boundary was to be transferred to Mezzo before works were completed. The surface area of this, added to that of the road on the west of the site and converted (at the inverse ratio) to floor space enabled a further floor to be added to the buildings. Challenged (by the Researcher) that no variante had been obtained for this, the projectist produced drawings with variante attached. However, subsequent careful examination showed this to be in respect of another, contemporaneous, project of Clinico's. The completed project exposes several major inconsistencies with the 1983 application. Up to 8 floors were built instead of 5 and the orientation of all buildings was moved through 45°, making these parallel to the road not diagonal to it.

Notification of start of works was given on 17th. July 1987. In February 1989 permission was given for Struttori to construct the roadways themselves, rather than pay the urbanisation charge (oneri). Construction works were officially completed on 7th. April 1989 and the street-works on 30th January 1990.

At the time of these investigations the Assesore who signed the concessione was under investigation for corruption. Also, having admitted receiving 'requests' from some politicians to employ certain people, Clinico's managing director was under enquiry for having exchanged votes for favours. Like the initial clinics, which had been upgraded and re-opened or converted to 'nursing homes', the new hospital had obtained official contracts. According to the projectist the land cost 1/10th of construction costs, whereas outside a 'residential services area' it would have cost 1/4.

Figure 41 Synopsis of case I-04 - 'Clinico's planned care for Mezzo'

9.4.1 Issues and processes

Driven by legislation facilitating the funding of private health care, this case quickly enters the murky waters of political and commercial intrigue. Many actors were reluctant to talk about the case, files were surprisingly 'empty', documents requested 'could not be found', and several times 'warnings' were

²⁰⁶ Instruction as to what should be done which have to receive the council's approval.

²⁰⁷ This gave regional force to a state law which ordered the closure of private clinics which did not meet certain standards.

given to the Researcher against continuing with enquiries. Establishing an accurate detailed picture of the issues and processes involved, therefore, proved difficult. However, by piecing together establishable facts and corroborated hearsay evidence from several actors and informants outside the case, three issues seem dominant. First, Clinico had found the routes to unlock and distribute regional and state funds, using these to 'buy' support from politicians, administrators, and public at all levels. They knew how to work the system. It is probable that they were behind the national law requiring the closure of clinics. Second, their expansion plans required development permits, notionally only available to public authorities, for sites in strategic locations with possibly contrary zoning, and available to serve the widest possible area (regardless of zoning). Third, failure to complete the PRG, PP, etc. processes, coupled with various laws, left Mezzo in a 'catch 22' planning situation. The 'rules' were thus blocking both private and public interests.

With no one against the project, hearsay suggests that a concession was actually given for the 1983 design. But with the Minister of Public Health's support, Clinico wanted both a larger facility and more smaller facilities. Mezzo needed a way to free-up its planning hiatus. Presented in the right way, an appeal to the TAR was sure of success and, even though Italian law does not follow precedent, the TAR's ruling on the legality of the PRG and associated rules would help Mezzo and open the way for Clinico's other projects. By substituting fresh, larger plans, for the original application, playing with road areas to increase permissible volume, ignoring incorrect inverse ratio's, etc., Clinico could effectively get the TAR to direct that a non-complying application be allowed and a second permit granted for this application. The deal that was important was not the 'concessione' itself, but the 'abolishing' of the tools of control, a point made by the outspoken councillor.

Whether or not this Machiavelian scenario was pre-planned, this is effectively what happened. An alternative view might see the 1983 application as having been formally replaced, the appeal challenges well founded, and the TAR decision the logical consequence. But a few tell-tale clues undermine this, viz.: the absence of supporting evidence on file, the project manager's statement that *"Of course the people in the Ufficio Tecnico take bribes, they are not paid enough"*, the 'warnings' against investigation, the improbability of a building of 44,441 m³ being only to service the local community, the fact that if a PP had been drawn, as proposed by the independent Assessore, it could have excluded this use, the failure of the new CU to stop the project on the grounds that it was four times the permitted size, the project manager's apparently mistaken 'cover up', the incredible speed with which modified drawings were eventually submitted and accepted, and the detailed nature of the council minutes when approval was finally given. This is something which, as a local university professor explained, *".. is only ever done when controversial cases are discussed. It shows a conscious effort to show that things are being done in a proper way. It is a way to use formality to decline responsibility. A screen."* The municipality was, after all, giving up its planning tools, as the coun-

²⁰⁸ The highest level national administrative court.

cillor complained.

But, even if the more conventional explanation is accepted, then the irregularities surrounding design, size, orientation, roads, etc., and the hearsay accounts of earlier starts and completions of these suggest that at least rule neglect and/or manipulation, was present. Whatever the case, whilst plans certainly put an unwelcome brake on decisions, the process of making them seems to have been directed by a mixture of policy, whether formal or not, and bargaining to cement this mixture, whether legal or not.

9.4.2 Practices - locating the decision and process

It is hard to say whether public interests were involved, although these may have been represented through national and regional health service policy and contracts. Conversely, private interests appear much to the fore, closely linked to the power of commercial interests. Planning rules were negated, changed, circumvented or broken, but apparently through the use of other related rules. Such 'rules' were seen as providing some degree of check on unfettered negotiation, possibly with a degree of discretion and judgement being applied to both policy and the means of addressing the rules, but this was clearly for profit and commercial gain rather than local community interests. The decision process locates in quadrant 'C' of the matrix (Figure 43, p.181). Interestingly, it seems that *due process* was used to full effect to hide whatever was going on in private. This challenges notions that overt compliance delivers transparency, which scores 3. Since the development was of benefit to the neighbourhood as well as the wider community, in terms of jobs, amenity and highway improvements, some improvement over the plans was secured. But this seems the result of policies in response to market forces, not the 'rules' *per se*, holding equity's score to 5.

9.5 Residential 'swaps' (Case I-05)

'Progetti' is a second generation company, run in tandem with two other development concerns for tax reasons. Formed in 1952, it now has around 100 direct employees plus regular sub-contractors. It specialises in residential development, as would a UK 'spec house-builder'. Encouraged by central government policies, it believes that Italians will always make sacrifices to buy a home. Like its competitors, it sticks to development in the local area, where its contacts are. Believing there to be an oversupply in large apartments, the firm recently decided to concentrate on smaller units.

| <i>DETAILS - case I-05</i> | | | |
|----------------------------|---|-----------------------|--|
| Site area: | 1293.65 m ² | Site Type: | redevelopment |
| Dev. Type: | Residential: flats | Location: | peripheral suburb |
| Planned use: | urban completion | Policy use: | urban completion |
| Actual use: | redundant factory | Outcome: | use changed |
| Project idea: | 1986 | Application: | 1988 |
| Decision/s: | 1989 | Decision type: | Negotiated (hybrid) |
| Actors: | UT officers, Assesore developer, engineer, land owners, | Agencies: | Commissione Edilizia, Insurance Co. USL |

| Time diagram - case I-05 | | | | | | |
|---------------------------|------------------------------|--------------------------------------|--|------------------------------------|--------------------------------|----------------------|
| 1967/8 | 77 | 86/7 | 88 | 89 | 90 | 91 |
| / / | / / | / / | / / | / / | / / | / / |
| Land bought for one house | More land bought for storage | Developer spots land negotiates deal | Application. ISTANZA | Modifications req'd CU favourable | Apartments all complete & sold | PP for area approved |
| | | Projectist chosen | Engineer 2 is external examiner for CE | Declaration re factories | | |
| | | Adjacent property of brother bought | | Insurance policy USL favourable | | |
| | | | Water & sewerage installed | Works start Oneri paid | | |
| | | | | Concessione issued | | |
| | | | | Concessione transferred | | |
| | | | | Change director of works to eng. 2 | | |

Their method of operation is to locate suitable plots, approach the owners directly, persuade them to sell, sign a 'volunta di fare', or heads of agreement subject to contract and, when pre-contract enquiries are complete, exchange formal contracts subject to development permission being obtained²⁰⁹. An immediate start is then made to pre-sell, taking deposits even before submitting an application. This is made in the name of the land-owner, the permit being transferred once obtained. If sales are sufficiently strong they often start work before the permit is obtained, although this is illegal. If sales are poor they may try and cancel the contract, rather than try to obstruct the grant of permit, as is the practice of some developers in this situation. Progetti have standard 'spec' designs, ready to apply to any available site and have also devised a payment scheme to attract working class clients who may have difficulty in obtaining a mortgage. Working to a ceiling price of 150/160,000,000 Lira per flat, Progetti accept an interest free payment of 1,000,000 Lira per month over a 36 month construction period. With 36,000,000 Lira paid Progetti is then able to arrange²¹⁰ for one of its bankers to make a short term loan for the balance of circa 120,000,000 Lira, to the purchasers on completion.

Synopsis - case I-05

Travino's 1976 PRG zoned the area as land still to be completed and upgraded by installation of infrastructure, services, and the demolition of certain buildings (a 'Zona di Completamento' - B6). It stipulated that a detailed plan (PP) should be provided before any development took place. Since the building ratios were high - 5m³/m², Progetti and similar firms pressed the town to approve a PP. Eventually Travino acquiesced and, in the interregnum, agreed to consider individual applications. However, it was not until 1987/8, when sewerage and water services were installed that developers began to submit these. Such permits as were granted were mainly subject to compatibility with present and future traffic arrangements.

Progetti was already working on a nearby site and saw possibilities for this land. They approached the owners, a lorry driver and his wife. Their home was adjacent, built by them after buying the land in 1967/8. Blighted by the prospect of a new road cutting through it, as well as poor facilities, they had got the land cheap. The case site had been bought by them in 1979 as somewhere safe to park the lorry, 2 having previously been stolen, and because the vacant land was becoming a tip. Holding 'hope' value, they paid dearly for this. Subsequently, the lorry driver's early retirement through ill health had seen the land become a small vineyard.

It took Progetti several months to persuade the couple to sell. When they agreed, no contract was signed - they disliked written documents which "... are always obscure and hide tricks ...". The deal, which gave them a new flat when the block was built as well as cash, access and water supply to the rear of their house through the new development, and a say in the design of their new flat, was based solely on trust. No legal or other professional advice was obtained.

Pressured by high rents in the centre of town, the lady vendor's brother had moved to the adjacent property, which he owned. In the PRG this was shown as a factory, being noted on the UT's files as derelict and to be

²⁰⁹ This is very similar to the way an English developer might proceed using an option or conditional purchase agreement.

²¹⁰ i.e. based on 'good payment record'.

demolished. It was rather small for his family, but could not be expanded because no PP existed. He liked the deal and joined in. With at least 3 of the 15 flats pre-sold (vendors, brother, daughter), and the design 'tuned' to their requirements, in December 1988 the application was made in their name. Work commenced illegally soon afterwards. In June 1989, after some modifications, the Urban Commission (CU) gave a favourable opinion and permission was granted in September, after the requisite insurance performance bond had been taken out in the vendors' names and the urbanisation charges (oneri) paid. In fact Progetti paid for both and collected the permit from the UT, it being transferred to their name later.

By this time the structure was up to at least 1st floor level and the member of Travino's CU who had examined the application, and often worked for Progetti, now took over from the original 'projectist'. The development was completed and fully sold.

Figure 42 *Synopsis of case I-05 - 'Residential swaps'*

9.5.1 *Issues and processes*

Deceptively simple, this little case says a lot about the nature of development and the planning and development control regime in Italy. Wisely, Progetti organised their affairs to avoid bad markets, but these themselves were and are heavily influenced by central government policy and by political favouritism. Although, as seen elsewhere, larger firms may have great influence, smaller concerns need administrative as well as political contacts to improve their opportunities. Those without, like Progetti, have to rely on intermediaries, a role well played by the professions, as witnessed by Progetti's two project manager engineers. Such good contacts and professional skills can avoid even the most inflexible legislation becoming an obstruction. For example they gave Progetti the confidence to be well underway with construction before permits were granted. But this also points up the importance of 'rules' being obscure, giving a form of professional protection to such intermediaries albeit that they may be powerless in the face of enforcement unless protected politically. As Progetti's MD said, *"If one has the right contacts it is possible to over-ride the rules. Yet it is necessary to have a political game going if one does not want the rules to be used against his own project."*

But enforcement requires knowledge, tools, ability and will. Avoidance may just require silence. In Italy almost nothing is ever pulled down. Thus, had the UT files correctly recorded 'house' instead of derelict factory, permission may not have been so easy to grant, even though it may have been an illegal conversion. Progetti's approach may have been a 'gift of god' for this owner. Who else would buy something that did not exist? With a PP in process, any visit would have disclosed this. Likewise the true state of the (illegal) building works. But then, once built, they were unlikely to be demolished either. These inaccuracies of course suited Progetti, possibly financially as well as in obtaining permits.

Yet Travino's UT did know what was going on. They were willing participants to what, apparently, is a common dissimulation if not open deceit - the owners posing as developers for application and insurance bond purposes. They seemed unconcerned about the attendant risks of unfinished buildings, environment, etc.. From Travino's files it is difficult to understand what rules were being applied. Reliance was and is placed on technical personnel to interpret these. But the danger in this, as pointed out by an Architect lecturer, is that *"They may forget the purpose as well as contents of the legislation, and may try to apply rules they have never read, only learned about from someone"*

*else*²¹¹". Again this tends to suggest that everything lacks clarity, as if everyone prefers to operate with uncertainty and obscurity.

The project seemed to have been too small to attract real political interest. The plan, even the proposed PP, played no part, except in so far as it allowed out of date information to remove possible obstacles. Policy for upgrading the area allowed consideration of the scheme and what negotiation was involved seemed to have been at a very obscure '*entre nous*' level within and between professionals and administrators. Because of the 'black box' nature of this the process seemed to follow idealised model 3 (negotiation) more closely than the others, albeit that this is of a different type and may suggest a hybrid format.

9.5.2 *Practices - locating the decision and process*

The PRG, intended PP and related policy aimed to benefit the local community, but were never applied. Developer interest in the area was motivated by profit and increased when water and sewerage improved development potentials and markets. Profit and personal gain played an important role and delivered benefits, but real corporate power was not fully present. With rules accepted, even if for the wrong purpose, as setting some form of loose control framework, they were nevertheless ignored. This decision would seem to locate in the centre of quadrant 'C' of the matrix (Figure 43, p.181). Institutionalised obfuscation and manipulation scores transparency at 2 but, peculiarly, is seen to be operated with an informal fairness, borne of commercial concerns. Thus equity rates 5.

9.6 The Italian development permit decision process

These five cases provide a broad overview of development types, a range of sizes, and fine grain detail surrounding Italian development permit decisions. Besides instancing the "*total confusion*", which Ave (1991, 43) suggests attaches to the implementation procedures of the 1942 planning law, they show how the stages in land's 'maturing circumstances' (Goodchild and Munton 1985), vary between projects and continue beyond development. Emphasising the importance of timing, both commercially and politically, as in the Dutch and German cases, they highlight a search for English style flexibility. But whether or not this is primarily to aid adaptation to change, or for some other purpose/s, is open to doubt. With whoever is able to set the policy agenda defining land use, the cases illustrate political clientelism and co-optation, the presence of combined political-commercial intrigue, and the use of rules, procedures and limited but elaborate formal records, to obfuscate, provide a screen of secrecy, and protect participants. What they do not do is support Fubini's (1991b) contention that "*...decisions must be consistent with the Town Plan.*", unless, that is, 'adjustments' are made notionally to respect this (see 4.2.1). The ethos of these cases is captured in a vice mayor's words "*Why isn't anyone asking for favours anymore?*" (I-04), not something encountered in England.

Indeed, beneath the veneer of regulation, 'favours' appear as the practical, as well as cultural, reality.

²¹¹ see also case I-02 where the chief officer offered lack of trained staff and equipment as excuse for some of the shortcomings.

From the simple 'presents' of eggs and produce²¹² given to Mezzo's UT archivist and department head, through the observations of Clinico's project manager (I-04) that *"of course the people in the UT take bribes..."*, to Progetti's director's statement (I-05) that *"If one has the right contacts it is possible to over-ride the rules... but without a political game going (they may) be used against you."*, 'rules' it seems, have become instruments of such favours. The thought of 'giving them up' caused great consternation for one councillor (I-04) and, although his motives might have been highly commendable, in general they don't often seem especially applied to protect present or future local interests, nor at a wider level, the environment. In practice third parties are unrecognised and even substantial objections may be ignored. Rule frameworks designed to protect individual rights, seem directed to politico-commercial considerations.

9.6.1 Decision models and Italian practices

In these cases, it is difficult to determine what 'rules' really apply, or what processes are followed.

When commercial/political or officer/professional accord agrees to a proposal going forward, once, as in the Netherlands, a project has got into the system, informal game rules seem to take over, carrying the momentum toward approval. But, as in England, that decisions are negotiated in relation to current policy rather than following plans, is clear.

As corporate power becomes of public interest, large firms acquire great influence. Their ability

| The Italian permit decision process | | | |
|-------------------------------------|------|-----------|--------|
| Case | Plan | Negotiate | Policy |
| I-01 | | 1 | 2 |
| I-02 | | 1 | 1 |
| I-03 | | 1.5 | 1.5 |
| I-04 | | 1.5 | 1.5 |
| I-05 | | 2.5 | 0.5 |
| Totals | 0 | 7.5 | 6.5 |

Table 17 Decision models and Italian processes

to access public funds provides the where-with-all with which to 'favour' locations and people. Besides winning privileged treatment locally, their lobbying may access and influence state legislation (I-04). Neither of these situations is so obvious in England.

Yet, for all countries, these are important considerations. Government policy and political favouritism can heavily influence local markets and with local government often focused on expansion, the ability to recognise the (emerging) strategic importance of sites, as well as the separate importance of individual location, can enable a commercial enterprise to effectively direct local policy. This highlights the importance of well informed, skilful negotiators who know how to work the system. It also pinpoints a major municipal weakness - the apparently poor level of administrative capability.

9.6.2 Italian rules -v- Italian interests

Thus, manipulated to serve the interests of politics and commerce, 'rules' form but small obstacles to private and 'public' interests. The pattern of case locations on the matrix (Figure 43, p.181) is very similar to that of England. With the balance of town & city interests often differing from those of regions & state, as was evident in cases I-01, I-02, I-03 and I-04, planning and development are often arenas for working out power and policy arguments, albeit, due to the structure of local *giuntas*, not particularly of a party nature. Accordingly, the accuracy of plans and efficacy of regulations does not

²¹² Not recorded in the case facts, but noted here for context.

matter. But controlling them does. More obviously than in England, where policy is itself the main 'rule', they seem used as negotiating counters to secure current policy interests, enable political will to be imposed against opposition and, via deals with commercial organisations, to 'bring widest possible public benefit', e.g. consumer demand and civic competitiveness in pursuit of best city 'image' (I-01). Administrators and professionals seem to share an interest in promoting obscurity via the rules. Their almost impenetrable web seems advantageous to them. Whether or not intentional in England, there the same effect results from increasing reliance on, if not deferment to, property industry professionals. In part this may explain why Italian officers seem to cling to the power which their responsibility for regulatory control gives them, and why occasional conflicts erupt between them and politicians.

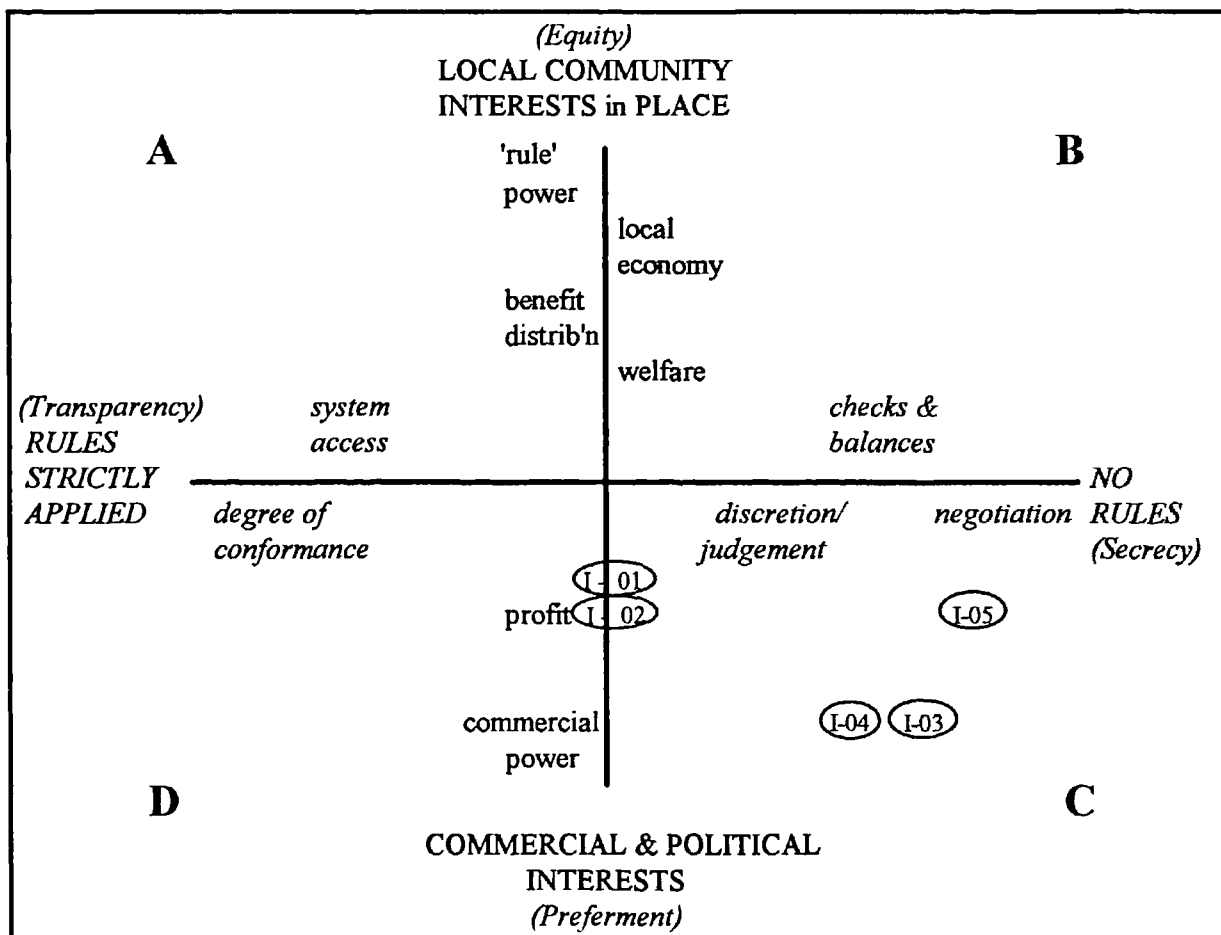


Figure 43 Matrix of rules, interests and power in Italian land use decision making

Unlike their English counterparts, since their system provides for them to administer not advise, Italian officers appear to avoid either giving advice or making recommendations. For the many professionals who appear to serve as municipal advisors and/or on consultative committees at the same time as they are also engaged by local developers, the rules pose long term conflicts of interest (I-05), despite individual projects separating these. Again such problem is not so obvious in England, but could have a latent presence. As the project manager in case I-03 confided it is "...not difficult to get what (we) want and convince everyone (we) are operating correctly by citing the 'right' law". In other words, much of their 'planning expertise' would seem to be in the consultancy form, something not unfamiliar in England. But in Italy, where there appear to be 'rules for everything and rules to the

contrary', this may not be too hard. Given the close inter-professional relationships, it may indeed be correct that developers benefit from "...a convenient interpretation of urbanisation laws" (I-01).

Perhaps, having learned to develop in spite of the rules, this gives them the confidence to start construction prior to consent.

Italian 'rules' seem used not to administer the plan but to shift town policy concerns to commercial criteria, emphasising profits and the sometimes hybrid nature of negotiation within this process.

9.6.3 Ranking of factors in the Italian decision making process

| Factors | //Italian Cases | I-01 | I-02 | I-03 | I-04 | I-05 | Count of factor | Total weight | Av wt by count | Av wt all 5 cases | Rank by Count | Rank by Av Wt of 5 |
|---------------------------|-----------------|------|------|------|------|------|-----------------|--------------|----------------|-------------------|---------------|--------------------|
| Corporate driven | | 2 | 3 | 3 | 3 | 2 | 5 | 13 | 2.60 | 2.60 | 1 | 1 |
| Covert process | | 2 | 2 | 3 | 3 | 3 | 5 | 13 | 2.60 | 2.60 | 1 | 1 |
| Investment interests | | 3 | 3 | 1 | 3 | 2 | 5 | 12 | 2.40 | 2.40 | 1 | 3 |
| Town plan out of date | | 3 | 3 | 2 | 3 | 1 | 5 | 12 | 2.40 | 2.40 | 1 | 3 |
| Developer tactics/rules | | 2 | 3 | 1 | 3 | 3 | 5 | 12 | 2.40 | 2.40 | 1 | 3 |
| Policy issues | | 2 | 2 | 2 | 3 | 2 | 5 | 11 | 2.20 | 2.20 | 1 | 6 |
| Rule manipulation | | 3 | 2 | 2 | 3 | 1 | 5 | 11 | 2.20 | 2.20 | 1 | 6 |
| Rules over-riden | | 2 | 2 | 2 | 3 | 2 | 5 | 11 | 2.20 | 2.20 | 1 | 6 |
| Rule & policy conflicts | | 3 | 2 | 2 | 3 | | 4 | 10 | 2.50 | 2.00 | 12 | 9 |
| Negot'n based process | | 2 | 1 | 3 | 1 | 3 | 5 | 10 | 2.00 | 2.00 | 1 | 9 |
| Image promotion | | 2 | 3 | 3 | 1 | | 4 | 9 | 2.25 | 1.80 | 12 | 11 |
| Lobbying | | 2 | 3 | | 3 | 1 | 4 | 9 | 2.25 | 1.80 | 12 | 11 |
| Policy based process | | 3 | 1 | 2 | 1 | 1 | 5 | 8 | 1.60 | 1.60 | 1 | 13 |
| Long process of change | | 2 | 1 | 2 | 1 | 2 | 5 | 8 | 1.60 | 1.60 | 1 | 13 |
| 'Deal' arranged | | | 2 | 2 | 2 | 1 | 4 | 7 | 1.75 | 1.40 | 12 | 15 |
| Other agenda | | 1 | 2 | 1 | 3 | | 4 | 7 | 1.75 | 1.40 | 12 | 15 |
| Societal change | | 3 | 2 | 2 | | | 3 | 7 | 2.33 | 1.40 | 22 | 15 |
| Private interests | | | | 2 | 2 | 3 | 3 | 7 | 2.33 | 1.40 | 22 | 15 |
| Pre-negotiation | | 1 | | 2 | 2 | 1 | 4 | 6 | 1.50 | 1.20 | 12 | 19 |
| Economic issues | | 2 | 2 | | 1 | 1 | 4 | 6 | 1.50 | 1.20 | 12 | 19 |
| Market pressures | | 3 | | 1 | | 1 | 3 | 5 | 1.67 | 1.00 | 22 | 21 |
| Speculation | | 1 | 2 | | 1 | 1 | 4 | 5 | 1.25 | 1.00 | 12 | 21 |
| Corruption | | | 1 | 1 | 2 | 1 | 4 | 5 | 1.25 | 1.00 | 12 | 21 |
| Political pressures /el'n | | 2 | 3 | | | | 2 | 5 | 2.50 | 1.00 | 27 | 21 |
| Individual driven | | | | 1 | 2 | 2 | 3 | 5 | 1.67 | 1.00 | 22 | 21 |
| Rules frame process | | 1 | 1 | | 1 | 1 | 4 | 4 | 1.00 | 0.80 | 12 | 26 |
| Appeal proc. important | | 1 | | | 3 | | 2 | 4 | 2.00 | 0.80 | 27 | 26 |
| Plan & rule based proc. | | | 1 | 1 | 1 | | 3 | 3 | 1.00 | 0.60 | 22 | 28 |
| Infrastructure change | | | | | | 3 | 1 | 3 | 3.00 | 0.60 | 33 | 28 |
| Media influence | | | 3 | | | | 1 | 3 | 3.00 | 0.60 | 33 | 28 |
| Local rules followed | | | 1 | | | 1 | 2 | 2 | 1.00 | 0.40 | 27 | 31 |
| Institutional driven | | | 1 | 1 | | | 2 | 2 | 1.00 | 0.40 | 27 | 31 |
| Political issues | | 1 | 1 | | | | 2 | 2 | 1.00 | 0.40 | 27 | 31 |
| Regeneration pressures | | 1 | 1 | | | | 2 | 2 | 1.00 | 0.40 | 27 | 31 |
| Technological change | | | | | 2 | | 1 | 2 | 2.00 | 0.40 | 33 | 31 |
| Jobs | | | | | 2 | | 1 | 2 | 2.00 | 0.40 | 33 | 31 |
| Transparent process | | | | 2 | | | 1 | 2 | 2.00 | 0.40 | 33 | 31 |
| Planning gain | | | 2 | | | | 1 | 2 | 2.00 | 0.40 | 33 | 31 |
| Political interests | | | 1 | | | | 1 | 1 | 1.00 | 0.20 | 33 | 39 |
| Cmmnty interest/benefit | | | | | | 1 | 1 | 1 | 1.00 | 0.20 | 33 | 39 |
| Planning issues | | | | | | 1 | 1 | 1 | 1.00 | 0.20 | 33 | 39 |
| Environmental issues | | | | | | | 0 | 0 | 0 | 0.00 | 42 | 42 |
| Post negotiation | | | | | | | 0 | 0 | 0 | 0.00 | 42 | 42 |
| Plans followed | | | | | | | 0 | 0 | 0 | 0.00 | 42 | 42 |

Figure 44 Factors in the decision making process in 5 Italian cases

With leading factors ranked similarly to the English cases, Figure 44, p. 182, makes the foregoing observations manifest. Aided by outdated plans and rules, the corporately driven process is covert and subject to developer tactics, although these drivers are less prominent in England. In Italy, official neglect, failure to apply, and/or the manipulation of 'rules', appears to give green light to the private sector for circumvention. In themselves these actions may influence policy issues, while the political use of rules to gain control of the development process in the service of commercial, albeit policy linked, interests, strips them of intrinsic value. As might be expected, given the difference in systems, rule and policy conflicts rank substantially higher than in England. Yet, strangely, the policy related, hybrid negotiation process is seen as being more prominent while, in supporting of 'image' promotion, reliance on lobbying seems much less than in England. Greater prominence is given to the covert nature of the process than in England, but 'deal making' appears to be the reverse. However, such arrangements are seldom a quick operation and add substantially to the other long processes of land use change. As elsewhere, the making of these 'deals' involves many other agendas, sometimes driven by social change and expectations, as well as private interests. Surprisingly, pre-negotiation, while still an apparent concomitant for all major projects, seems less important than in England. Involving economic issues, these arrangements are themselves reflected through varying market pressures but rather less so than in England. Even so, developers have great concern for such pressures, especially when the market outlook is doubtful. As in England, and in the main, speculation seems to be avoided, although advantage will be taken if this is an 'add-on' benefit. Corruption, on the other hand, whilst not dominant, is clearly present and apparently a much more accepted 'fact of life' than in England. Aside from this, the system itself shows marked signs of being corrupted. This is evidenced by departures from the regulations without comment; development being permitted regardless of plan and without change of destination; and illegal buildings and conversions gaining *de facto* acceptance. There is also a lack of will (and machinery) to enforce rules, e.g. by demolition. While politicians, as always, have an eye on popularity, electoral pressures on them occurs mainly at election times. Accordingly private interests are represented more frequently than political interests, both rather less so than in England. However, although the rules do frame the process in most cases, this framing is somewhat peripheral to the commercial/political bargaining which goes on. Administrative appeal procedures appear of less importance than English planning appeals, but do seem to be of importance to all parties, usually when their interests appear to coincide. Although each is noted only once, the influence of infrastructure change and the media is believed to be rather greater than this analysis would suggest, possibly due to these being somewhat peripheral to the research. Of the balance of the factors listed, the low importance of local rules, institutions, politics, and regeneration pressures is somewhat surprising, as too are the relative insignificance of technological change and jobs.

9.6.4 Indicators of transparency and equity

That the process lacks transparency is axiomatic, but the low ranking of planning gain²¹³ in situations where bargaining is to the fore, supports the observation that decisions are seldom taken in either local or general public interest. Also, in a country where politics appears to feature highly in the development control process, the negligible influence of (party) political interests in land use decisions is remarkable. Perhaps this is associated with the apparent irrelevance of planning issues, or it may simply be that party politics works in a different way there from England. But then, like with the environment and even plan conformance, in situations where the 'rules' become over complex and "*the powerful make all the rules...*" (I-04), obscuring and obfuscating issues, perhaps this is not so surprising. No wonder the UT (technical office) becoming unwitting, if not willing, participants in routine, every day deceptions.

Peculiarly, institutionalisation of such practices means that while not transparent, they have a certain clarity of their own. Everyone 'knows' that things are being achieved in a circuitous fashion, even down to the lorry driver and his wife (I-05) who rejected written contracts because they can be used to 'cheat'.

In summary, poor definition and lack of clarity, made worse by an over accumulation of often conflicting rules, applied by inadequate and under equipped staff, has facilitated the commercialisation of Italian plan

| 5 Italian cases | | |
|-----------------|--------------|--------|
| Case | Transparency | Equity |
| I-01 | 3 | 1 |
| I-02 | 2 | 3 |
| I-03 | 2 | 2 |
| I-04 | 3 | 5 |
| I-05 | 2 | 5 |
| Total | 12 | 16 |
| Ave | 2.40 | 3.20 |

Table 18 Transparency & Equity Indicators

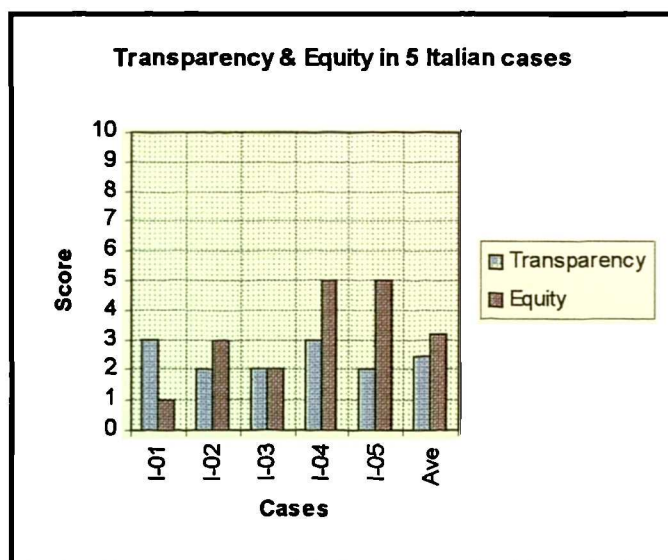


Chart 4 Transparency & Equity Indicators compared

implementation through political channels. Whilst the underlying cultural environment may have encouraged this, political infighting to control the rules has exacerbated and accelerated the systems decline into generalised corruption. This, it seems, has thrown up certain unwritten understandings of how to operate and who to look after which imposes a nominal form of natural justice and fairness. In Italy the 'name of the game' appears to be commercial -v- political survival.

This is a game in which the two often find their interests synonymous to the detriment of rule-protected equity. It is a game in which securing and holding power and influence is paramount, where the direction of public funds can facilitate both this and private profit. This game is often played out through the development arena and won or lost

²¹³ In the Italian context planning gain implies some contribution to, or benefit secured by, the local community over and above any contributions required for 'urbanisation' on grant of the development concession.

on the ability to find routes to loosen the grip of outdated plans and rules.

France

Geographically, France is Europe's largest country after the USSR, enabling its 55 million inhabitants to boast one of that continent's lowest population densities (Mole 1991).

Northern France was originally populated by people of Germanic origin and the south by Mediterranean peoples, a picture complicated by western France having a strong Atlantic tradition, shared with Britain and Scandinavia, while Eastern France belongs to continental Europe, with strong historical and economic links with Germany, Switzerland and Italy. The result is that, although France has one of Europe's longest histories of unified rule, French society is anything but monolithic. On the contrary, its pluralist collection of economic, regional and political interest groups co-exist in sometimes uneasy truces (Ardagh 1990). The French have a strong attachment to their home region and are reluctant to transfer between regions, the exception being a move to Paris. In contrast the Parisians regard a transfer to the provinces as exile (Mole 1991).

However, French centralism stems not from the predominance of the powerful Paris region suppressing the others, but from the creation of an idea of statehood that transcends and absorbs regionalism and excludes any concept based on federalism or devolution. It is imbued from an early age via an educational system that not only teaches, but incorporates a national curriculum and examination system. It permeates French attitudes through all organisations. Centralised, ordered, legalistic, elitist, the political structure is a model for all organisations. Vertical administration, clear cut divisions, ordered hierarchies and central planning, are their features (Ardagh 1990)..

The commune is the basic unit of society and administration. With over 36,000, France has the smallest average size and population per commune of any European country. Fiercely guarding their independence, this creates numerous problems, especially of finance, management and planning. To overcome these, policy has been, and remains, to encourage flexible systems of inter-communal co-operation (Combie 1989). However, most communes are far too small, creating a major weakness, especially where the spread of conurbations has engulfed small surrounding communes which *"still cling defiantly to their independence, with many depopulated rural communes no longer making sense as administrative entities"* (Ardagh 1990).

Before 1982 there was only one planning system in France, driven by the state. Now, with decentrali-

sation of powers to regional councils and communes, there are three levels: local communes, regions and state. Even so, while central government pursues very clear Europe-wide objectives and indicates national strategy, it still retains many powers and is still very active. In theory regions respond via 'contracts' with the state, covering how investments are to be undertaken and plans brought to reality. Strategies are notionally developed in parallel as four year programmes. Urban structure plans or 'schema directeur' remain left over from the 1970's, but today few are being prepared

The national 'code de l'urbanisme' lays down rules for preparation and form for all plans. Thus the same types of regulations and urban area designations appear throughout France. The *Plan d'Occupation des Sols* (POS), or local plan, is the backbone of the local planning system. All communes can have one, although less than 1/3rd do so. It is initiated by the Maire ²¹⁴, or president of the inter-communal charter area, if there is one. Specific regulations are required for each zoning. Although notionally the public are consulted, rather than involved, in plan preparation, in practice the system is characterised by 'collectivities' or wider advisory groups. For example chambers of commerce have statutory responsibilities at local level. Superficially the POS are fairly rigid, but increasing flexibility is evident.

The French tradition of *dirigisme* - central bureaucratic control and heavy state intervention in industry - was overturned during Jacques Chirac's initial period as President. Francois Mitterand continued the move toward a more liberal, free market economy, with deregulation and decentralisation and the devolution of central powers to the regions, departments and communes, across the board (Wilson 1988, 218-21). Today, municipalities have what they demanded, responsibility for their own finance and affairs, with the state progressively withdrawing support. Nevertheless, just over a 1/3rd of all local funding comes from the '*dotation globale defonctionnement*', the global block grant, whilst the '*dotation globale d'equipement*' covers around 1/4th of capital (servicing) costs. This leaves almost half of revenue expenditure to be met from local taxes, mainly property & business (Punter 1989).

Yet, with mounting costs of public service provision and increasing pressures on municipal budgets, there is growing opposition to local taxes. Consequently development charges feature strongly in assessment of project feasibility and policy making (Crozier 1987). They embrace questions of 'planning gain'²¹⁵, community benefit and social equity and have become central issues in planning and development control.

The power and importance of the Maire emphasises the unique nature of the French local government system. Relying on 'personality' more than politics, many Maires remain in office for decades, exercising political power at many levels as well as full control over the local council (Punter 1989). The socialist devolution of 1983 stripped away the Préfet's powers and re-christened him *Commissioner*

²¹⁴ The French term Maire, meaning Mayor, is used throughout, except for the English adjective mayoral.

²¹⁵ As in the Italian context, 'planning gain' implies some contribution to, or benefit secured by, the local community over and above any contributions required for 'urbanisation' on grant of development concession.

of the Republic. His main role now is to co-ordinate economic planning rather than be a political governor responsible for approving local budgets. On an informal basis, much of the complicity and interdependence between préfets and Maires may remain (Ardagh, *op cit.*), but now, constrained only by the annual budget, the Maires authority, prestige and power carries immense local influence. As both leader of the council and chief executive²¹⁶, he/she acts as agent for central government, with authority vested in him/her personally, rather than in the council. The 'cumul des mandats', permitting accumulation of offices and stipends, intensifies this influence. Although the socialist reforms of 1982 reduced the attractiveness of multiple office holdings, it failed to limit this (Kesselman 1985, 174). In fact, by placing policy making in the hands of commune Maires, decentralisation has given them considerable autonomy in bargaining with developers, particularly over the level of the developers 'contributions', i.e. planning gain (Renard 1990).

Development Permits

"Any approach from the private sector for any development, has to be to the politicians. The right one to approach changes with every commune, situation, type of development, etc., depending on the 'interests' involved."

Interview with Regional Researcher, 1993

Obtaining a development permit automatically exposes the holder to a wide range of taxes and contributions toward the cost of servicing and providing amenities for the development. This can include all or part of the cost of providing public infrastructure corresponding to the needs of the actual or future residents of the sector concerned and rendered necessary by the development. It can include schools and crèches as well as highways, sewerage and other services.

It will be recalled that the original hypothesis for this thesis (1.5) sprang from research into planning gain in France and, by the time these investigations commenced, it was becoming clear that the hypothesis seemed to hold within major conurbations. Advantage was therefore taken of the RA's summer return to home towns throughout France, to consider a wider range of town sizes. With each RA handling a different case, this was felt to be more representative of the French politico-administrative structure. One large conurbation was kept in for comparison, resulting in variations in municipalities from 6,500 to 400,000 people. Investigated with the aid of 5 RA's, the French cases are:-

| Case | Dev. Type | Description | Site Type | Decision |
|------|--------------------------|-----------------------------------|------------|-------------|
| F-01 | Mixed residential/comm'l | Demolish factory, create new zone | Industrial | Changed use |
| F-02 | Residential | New social and private housing | Greenfield | Changed use |
| F-03 | Leisure | 96 bedroomed hotel | Redevelop | Changed use |
| F-04 | Residential | Luxury flats | Redevelop | Changed use |
| F-05 | Residential | Apartments | Urban | Changed use |

²¹⁶ Although the Maire is CEO, the *Secrétaire Adjoint* - a civil servant - handles administrative matters. If they don't agree politically with the Maire, then a special centre acts like a pool to find them a new post, being chosen by the Maire in interview. Although these posts were very stable, incumbents being regarded as the 'engine' of a town, this has been less so since the 1982 reforms.

10.1 Grandeville's disappearing site value²¹⁷ (Case F-01)

Grandeville's industrial development commenced around the turn of the century. Progressively its urban area was merged with adjacent communes. Today the agglomeration has circa 400,000 people. As in similar towns in many countries, the area between town centre and railway station attracted industry. In this case a substantial factory was developed over the years. But, again as elsewhere, in the early 1970's a combination of market pressures and technological change began to impact on its 'efficiency' and location. It was not conducive to economies of scale, workers became more affluent, mobile and moved to suburbia, commuting increased traffic congestion, and fly parking made narrow local roads unsuitable for increasingly large lorries. Presumably unaware of this, the state 'planners' prepared a special housing zone (a *Zone Aménagement Différé* - ZAD²¹⁸) for the old quarter (*Quartier Ancien*), effectively retaining the existing urban landscape and reinforcing the POS. The message to the factory owners was clear. Even if avenues could be found to enable them to make their premises more efficient, the transport infrastructure would not be improved.

DETAILS - case F-01

| | | | |
|----------------------|-------------------------------------|-----------------------|--------------------------------------|
| Site area: | 2 Ha. | Site Type: | Redevelopment |
| Dev. Type: | Mixed residential/comm'l | Location: | Between town centre and rail station |
| Planned use: | Industrial | Policy use: | Industrial |
| Actual use: | Industrial | Outcome: | Use changed |
| Project idea: | Maire, POS, 1986/7 | Application: | ZAC ²¹⁹ 1991 |
| Decision/s: | 1987 - 93 | Decision type: | Political / policy / negotiation |
| Actors: | Maire, Developer, Residents, Owners | Agencies: | Official Planning Agency |

Time diagram - case F-01

| 1970's | 1982 | 83/4 | 85 | 86 | 87 | 88 | 89 | 90 | 91 | 92 | 93 | 94 |
|-----------------------|------------------|---------------------------|---|--|---|--|------------------------|----------------|-------------------------------------|--------------------------|---|----|
| / | / | / | / | / | / | / | / | / | / | / | / | / |
| Technological change. | Decentralisation | New Maire POS pre-studies | New POS Re-develop necessary Refurb applicns increase | Business Park proposed Decide to close factory | Business Pk competition LA told of closure and talks sought POS revised | Talks to buy site by Devs. I.A.S. Appeals Pre-emption rights taken | Final closure decision | Factory closed | ZAC competition Public exbn meeting | Purchase contract signed | Demolition permit ZAC/PAZ ²²⁰ approved | |

²¹⁷ This case was a substitute imposed by the director of planning service after it had been agreed that another case could be inspected. He chose it because he saw it as non controversial. Even so access was only allowed to files under his direct supervision while certain of the dossiers were still kept under lock and key and access denied. Questions had to be put to him direct at the time of examining the files. As the interview progressed and it became clearer to him that a deeper level of understanding was required, many of his answers were extremely guarded and, it appeared, often deliberately vague or none committal. The case summarises both his evidence and that obtained from 8 other interviews.

²¹⁸ ZAD: Zone Aménagement Différé, fore-runner of the ZAC (footnote 219), often used for housing schemes.

²¹⁹ ZAC: Zone Aménagement Concerté: concentrated planning zone which enables a global vision of an area to be implemented and controlled by making specific rules, drawing such new plans, realigning parcels, land division and building rights - "droits à bâtir" -, and constructing such new roads and other infrastructure as are necessary.

²²⁰ PAZ: Plan d'Aménagement de Zone, the plans for the development of the ZAC territory.

Synopsis - case F-01

In 1983, promising a new image for the town, a new Maire was elected. Revision of the POS was an early task. This district, together with the degraded station area, were both highlighted for redevelopment, but financing and skills were in short supply and attention focused on the creation of a 'Business Park' around the station. In consequence, the 1985 POS for this site concerned itself with cosmetic improvements and a 'green corridor' to link with and further enhance the 'Business Park'. It essentially preserved the status quo.

Studies for the POS showed a declining, ageing population, but noted an influx of professional, middle and upper management classes. Planning applications to gentrify and generally modernise housing stock were increasing. Lacking appropriately qualified staff, the town planning department was unable to cope with any major proposal. Consequently many planning functions were sub-contracted to an emerging private consultancy sector. However, political control was retained over the direction of their efforts, ideas and reports. One proposal recommended the complete demolition of the factory to make way for new public transport (bus) routes to serve the Business Park.

In 1987 the factory owners started a progressive run down of operations, advising the municipality that they were to close. Tied to the POS industrial zoning, the site had a very low value. Since an alternative use with the same building ration (*Coefficient d'Occupation du Sol* - COS²²¹) would at least double its value, they sought to discuss alternative uses with the council/Maire. But these uses, especially office and related commercial, could pose threats to the Business Park. Their advances were rejected and, in 1988, the municipality applied a right of pre-emption to the site. Other things were in mind. Loss of employment was a blow, but the POS pre-studies highlighted the area, which was progressively degrading, for action. People wanted to move back to the centre but could not find housing, there was a need to link the Business Park to other town areas, and an election was on the horizon with no other major projects available.

Using their new powers, the municipality approved a concentrated development zone (a *Zone Aménagement Concerté* - ZAC) for the Business Park, mounting a competition to secure architectural and development proposals. To help attract entries from national companies an additional, mixed housing/commercial, ZAC was mooted for this site, which was offered as a 2nd prize. In 1988 the second place 'winners' approached the factory owners to buy the site - at its low use value, and in mid 1989 the factory's closure was announced.

Blighted by the notional ZAC, but without this formally approved, and constrained by extant POS zoning, the owners lacked the protection of laws to enable them to require the municipality to buy the blighted site. Recognising their position, they agreed to sell to the developer. Only then, after negotiations with the Town - in practice the Maire and his appropriate deputies/assistants - was the 1985 POS put under revision while the developer began to commission planning proposals for the ZAC.

The public exhibition for this second ZAC raised numerous written objections. Although the director for local works (*'Réalisation des Services Urbaine'*) was responsible for receiving public views, claims were made that proper information had not been given to the Council. These claims concerned pollution, refuse collection and disposal, lack of reference to the area structure plan (SDAU - *Schema Directeur Aménagement Urbain*) which covered several communes, property speculation, parking, sports facilities, public open space, and other public 'equipment'²²², especially schools and nurseries. The latter were already saturated but, it was claimed, would be swamped by the proposed increase in numbers of residents.²²³

However, the commissioner for the public enquiry, having none of this, gave a favourable opinion. At a rowdy council meeting the microphones were switched off to thwart public demonstrators while the council approved the making of the ZAC. Appeals were made to the Préfet and Administrative Tribunal, with the latter directing that irregularities must be corrected.

Around the same time the Council of State made a pronouncement about the increasing numbers of 'illegal' developments. The Town re-considered and quashed the original resolution, only to reinstate it at the same meeting with marginally different parameters.

But these delays had cost time. Four years had passed between the 'second prize' award and the revised go

²²¹ The Coefficient d'Occupation du Sol (COS) is the ratio of building volume which can be erected on a square meter of land.

²²² 'equipment': physical, social and environmental infrastructure, e.g. the facilities and services required for satisfactory development include schools & parks as well as roads and sewers.

²²³ After completing interviews, the Research Assistant responsible for this case came to the view that, in the main, the stated objections, although valid, were merely the ammunition. The real reason for objecting were to keep property values and rents down.

ahead for the ZAC. These were years in which building the 'Business Park' had been got well underway, but the property market had declined. The Maire and council were risk averse. They opted and voted for a 'private' ZAC - one in which a partner from the private sector could relieve the municipality from commercial exposure.

Plans for this second ZAC were revised, green spaces previously vaunted in the POS revisions were changed to housing, and both density and COS were increased. A new public enquiry and exhibition were held. Calls from the Préfet and Ministry of Sport for more sports facilities were ignored. Again the commissioner for the public enquiry issued a favourable opinion. Possibly in a move to thwart objectors, although the ZAC plans had not been approved, permission was given to demolish the existing factory. Challenged once again through the Administrative Tribunal, this time the municipality was in the clear. With no protection order on the buildings there was no legal basis for the challenge and it was thrown out.

At the end of 1992 the purchase contract was signed. Until then the land had remained subject to the POS industrial zoning. On several occasions the planning committee was 'widened' to include representatives from District Associations. Initially opposed to the project, they subsequently changed their minds and backed the proposals. In early 1993 the ZAC together with its special plans (*Plan d'Aménagement de Zone* - PAZ) were approved, 18 - 20 years after the area was first identified as in need of attention, 7 - 8 years after redevelopment, linked to the 'Business Park', was recommended and 6-7 years after the use of a ZAC for this purpose was first mooted.

Figure 45 *Synopsis of case F-01 - 'Grandeville's disappearing site value'*

10.1.1 *Issues and processes*

Here there is a problem in deciding which model of the decision process is most apposite. The original and 1985 POS designated the site industrial. But this neither fitted the changing reality or the political imperatives. Ultimately it was replaced by the ZAC, which was used as a policy instrument to create a development, not merely to re-allocate land within a plan or enable others to develop. In fact the real applicants' were the Maire and his team. They had full control of all appropriate staff and expertise as well as regulatory and other planning system instruments, which enabled them to neutralise if not negate the land-owner's power, and they were also the decision makers and takers. This remained the case until the market downturn when their risk aversion led them to pass the role of applicant to the developers. At this point it would seem that more commercial criteria were introduced and, one assumes, became the subject of negotiation. Although the ultimate process might be classified as driven by negotiation, it was clearly subject to major policy influences. It indicates that a new model of the land use decision process may be emerging.

Neither State nor town planning department appears to have had much, if any, idea of what industrial and possibly social economic changes were taking place. Seemingly they only found out by accident. By ignoring these factors the legal plans were doomed to be overridden. Land use was determined by a gradual, transitional process, influenced by economic, social and physical factors leading to organic change, rather than 'plans'. Attempts at planning was merely reactive, with 'normal' plan making merely reflecting the status quo. The eventual 'plan' for the ZAC was a political and commercial concept, designed to win elections, rather than a planning concept.

Here property development cycle processes can be seen at work. Market forces dictated the need for change in both buildings and infrastructure. At the same time, presumably ignorant of these pressures, state planners devised a POS which, whilst continuing the ossification, unintentionally pro-

moted the very changes avoided by their plan. Restrained by this, market forces left important areas of the Town to decline and decay, except that private gentrification interest was aroused. Whether from talk of and expectations of the Business Park, or simply a wish to move back to the centre and take advantage of low property prices, a process of organic change began. But, grasping the tool of planning regulations, local politicians curtailed this movement, imposed their image, and secured re-election. The plans themselves were mobilised and subjected to revision to support these aims, being left in place where political or commercial advantage was not immediately apparent.

The project clearly shows commercial and political considerations dominating and directing planning processes. Based on commercial (land values, eliminating competition, risk aversion) and political (development action, housing) considerations, the decision to redevelop via a ZAC was bulldozed through regardless of all concerns and requests. Somehow planning procedures designed to protect the public (enquiry, objections) were also hijacked to this end, with lay representatives 'persuaded' as co-optees to the planning committee²²⁴. Details of project proposals were kept confidential, hidden from public gaze & enquiry until the last possible moment. This led to the actual application, public review, appeal and ultimate approval becoming mere formalities. The timing of applications for approval of the project may have been manipulated to draw the teeth of objectors, allow actual use of the site to change (active to derelict), and thereby encourage favourable change in public opinion.

Once again the picture shows politics and markets dominating both plans and the planning process. Using planning instruments to hold down the value of an important area of land - the town simultaneously had in mind an alternative, higher value use for it. The town authorities informally planned the area to protect their flagship development from competition and used this 'plan' as an informal instrument to control and direct land use without legal backing. Regardless of gentrification trends, and without consultation, they effectively announced wholesale redevelopment and awarded the contract to execute this as a consolation prize. Providing housing for people wishing to move back to the centre was, presumably, seen as ultimately electorally favourable. Even in the short term it demonstrated positive action to the wider electorate in time for the elections. In itself this market demand was attractive to the private sector.

In 1991, with its immediate electioneering value used, public concern for the loss/retention of a vibrant, employment generating factory was more likely to change to one of nuisance, safety and eyesore as it stood vacant and became increasingly derelict. Its appeal as a major housing project could return for the next elections. With the property markets in decline neither partner was in a rush to approve the ZAC.

It was perfectly clear to everyone that only the mixed housing / commercial development proposed under the notional ZAC would be considered. Furthermore since the development of this ZAC had

²²⁴ For example one representative was an old man who, the interviewer noted, seemed susceptible to flattery.

been 'won' by a private development company and the municipality had made the land subject to its right of pre-emption, if the property were to be sold - even as a factory - then it had to be offered to the municipality or its nominee. No market for the property existed.

10.1.2 *Practices - locating the decision and process*

This case highlights the secrecy within which this municipality tried to operate. It illustrates a town being run like a business enterprise, with the Maire as the municipal entrepreneur. Everything and everyone revolved around him. The town planning service, planning committee and municipal *Société d'Economie Mixte* (SEM)²²⁵ all did his bidding. With the Préfet sidelined as *Commissioner of the Republic*, his views could be ignored. Together with architects, Ministries, Public Enquiries and Administrative Court, he was outside the Maire's essential 'inner circle', as are associations and members of the public. They don't have his ear and anything they say or do is likely to have no interest or effect unless legally enforceable means can be found of ensuring this.

The real decisions were taken several years before any formal proposal or application capable of public debate came forward. They were implemented regardless. Plans, codes and regulations (planning and other) for the control of land use and the development process, were all used as political tools to achieve other purposes, over-riding ownership of land and property, which did not play a major role. Instead the regulatory ability to control both use and title were more important. Title could not pass to anyone 'undesirable', including any alternate users for the same purpose.

The picture is similar to others, but reveals an interesting difference. Politics and Markets manipulated plans and rules to their own ends, but the municipality, in the person of the Maire acted as out and out entrepreneur, using such manipulation for the benefit of it and its partners. Hardly the fair use of 'rules' one might perhaps expect from those publicly elected.

Although the POS rules were swept away, they were replaced by the ZAC rules. Controlled by the project promoters, the situation was as if few rules had existed, checked only slightly by administrative appeal procedures. Judging by the degree of objection, decisions were not taken in the interests of the local community. To the contrary, the whole project seems to have been driven by political image and re-election criteria, although, arguably, this might be claimed to be addressed to the wider public interest. Ultimately market forces caused even this to be re-considered, requiring the intervention of commercial economic and profit considerations to re-shape the scheme to secure realisation. Accordingly the case is seen as being located in the centre of quadrant 'C' on the decision matrix. Whilst events show that the 'rules' did provide sufficient transparency to raise various challenges, scoring

²²⁵ A *Société d'Economie Mixte* (SEM) is dedicated to the acquisition and equipment of land for local authorities - especially in housing, town centre renovation, and economic activity area, and has several advantages over direct municipal involvement. Being governed by private sector law it is able to be more flexible than municipal departments, for example in terms of accountancy and staff management; and its senior employees work on projects all the time, whereas municipal employees have few projects to follow at the

this at 4, their failure to influence mayoral objectives and obligations rates equity at only 2.

10.2 'Friendship' in Petiteville (Case F-02)

Over the last 20 years or so, under the guidance of the same Maire, Petiteville has grown from around 400 inhabitants to some 6,500, benefiting financially from development. Residential schemes have been accompanied by commercial, industrial and major retail facilities serving both the town and the nearby metropolis. Before settling in the town, the Maire enjoyed a career related to international property. Although non-aligned and becoming politically more vulnerable, he is still regarded by many as a local 'Lord' who can dispense favours.

| <i>DETAILS - case F-02</i> | | | |
|----------------------------|--|-----------------------|---|
| Site area: | 3.5 Ha. | Site Type: | Greenfield |
| Dev. Type: | Residential | Location: | Village Periphery |
| Planned use: | Future public 'equipment' | Policy use: | 'equipment' expansion |
| Actual use: | Vacant / pasture | Outcome: | use changed |
| Project idea: | possibly 1986 | Application: | August 1989 |
| Decision/s: | December 1989 | Decision type: | political / policy / negotiation |
| Actors: | land-owners, Maire, surveyor, préfet, architect | Agencies: | Urban agency, development assoc'n. (AFU ²²⁶), trade assoc'n., Ministry of Equipment, Ministry of Agriculture, |

| <i>Time diagram - case F-02</i> | | | | | | | | | | | |
|--|---|--|--|---|--|--|---|---|---|---|----|
| 1974 | 1983 | 84/5 | 86 | 87 | 88 | 89 | 90 | | 91 | | 92 |
| / | / | / | / | / | / | / | / | / | / | / | / |
| POS states 'natural zone' + public equipment | Woodland disappears without annu'ding POS or approval | Part land bought by commune under notice | 'Reserve' for public equipment disappears to become UDr ²²⁷ | One owner buys small area to achieve Udz permit | Internal AFU negot'n on dev. Scheme prepared | Council give Maire powers Agreement signed | Préfet's consent Infrastr. starts Objection re road Dept. fund part Tenders for house construction. | | 24 houses built Some don't conform POS changed to conform to project. | | |

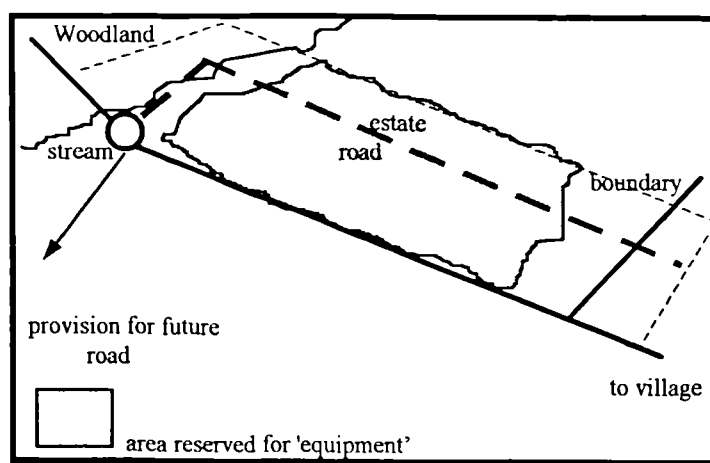


Figure 46 Petiteville residential scheme

same time. However, it does create a sense of lack of responsibility in city departments, with which it needs constant links, and is exposed to (higher) risks of corruption (Roberts, 1994).

²²⁶ AFU: *Association Foncière Urbain*; a management device under which all land is transferred to the commune who carry out all necessary infrastructure works, retain sufficient land to cover the costs of this, and transfer the balance of the land back to the original owners in proportion to their input.

²²⁷ UDr zone is urbanisable on minimum 1,000m² plots

Synopsis - case F-02

With foresight, the Maire's 1974 local plan (POS) reserved land for school and playing field 'equipment' on the outskirts of the village. Part of a larger area, the remainder and adjacent fields were zoned as natural, non buildable land. As owners aged, it gradually fell out of cultivation and use. Strangely, in the 1983 POS part of the woodland disappeared without permission or formal change²²⁸.

In 1984 the now retired owner served notice on the commune requiring it to buy the land reserved for equipment²²⁹ and an Intercommune Trade Association was formed to do this. There were now 4 main owners of the land, one of whom was the deputy Maire. Mysteriously the equipment reserve then also disappeared from the POS, becoming shown as zoned for limited building (zone 'UDr'²³⁰), enabling individual houses to be built if the land owned were large enough. The deputy Maire then sold enough land to one of the other owners, giving him sufficient land to engage this rule, who then approach the Maire for permission.

In response the Maire now proposed the establishment of a development association (*Association Foncière Urbain* - AFU) to develop the whole area at a greater density. Under this device, which he had used before, all land was transferred to the commune who carried out all necessary infrastructure works. The Maire appointed the same team of private professionals as he had used before. Project details were checked by the Ministry of Equipment and the Préfet's permission²³¹ for the scheme sought. He sent the details to an official legal department who rejected them on technicalities.

However, infrastructure works had already been started, and late public objections to the scheme on traffic grounds, caused further problems. But the Maire, a skilled negotiator, sorted them out leading to the work being completed before any approval was obtained. With the municipality retaining an agreed proportion of the serviced land to cover costs and profit on their work, per a formula, the serviced plots were then returned to the previous owners. Most sold them on for about 10 times the prior land value, and the AFU was dissolved.

Now the commune maintained a waiting list of people wanting to move into the town and so set about developing its retained plots. It allocated 13 for private housing and 24, being the 30% allocated in the land action plan (in order to obtain financial assistance), for social housing. Its private architect's designs were approved and the contract for building the 24 put out to tender. Eventually these were built by the regional social housing association (*HLM*²³²), but, since they did not conform to the plans, the commune withheld completion certificates²³³. Meanwhile, the market for private housing had turned-down.

Responding to this, small modifications to layout were made to provide an increased number of lower value houses. Petiteville then did a deal with the HLM who bought these remaining plots in addition to their original 24. The POS was then revised to conform to the development, thus legitimising the errors.

Figure 47 Synopsis of case F-02 - 'Friendship in Petiteville'

10.2.1 Issues and processes

As with Grandeville, the Maire and commune can be seen to be acting entrepreneurially over a long

²²⁸ There are 2 ways to change a POS, which are governed by Code de l'Urbanisme. The first is by revision, which is the hard way. The second is by modification, which is the easy way. Unfortunately both are very time consuming. Alternatively other instruments can be used to change the destination of the land and then put these in hand as a modification to reflect the new reality. Both appear to flow from § 176 of the Code de l'Urbanisme. As noted in *Les Procès d'Adaptation du POS*, (Precis Dallor, p223), when a POS is approved it must have minimum stability and must NOT be considered as fixed. Some of its dispositions must be considered as fixed protection. Others, by nature, must be seen as evaluative and changeable (Translation: Patricia Cheurlin).

²²⁹ If the commune had refused then they would have been obliged to take its reserve out of the POS. Price is fixed by the Domain according to the POS classification.

²³⁰ Land normally has a COS of '0'. However, if 2 Ha. or more are owned then the COS is increased to 0.15.

²³¹ i.e. Commissioner of the Republic. Every administrative act has to be approved by the Préfet, although it is not very clear if this is always done, since communes now have authority to take such actions anyway.

²³² HLM are specialist social housing companies, similar to housing associations. They can undertake speculative building for sale.

²³³ Completion certificates - or certificates that the building has been completed in conformity with the plans and regulations - have a legal strength but are not necessarily enforced. Problems only arise when neighbours complain. Even then it can be difficult to get changes.

period of time. As in any small community, it is not surprising that many of the landowners appear to be friends. What is interesting is the manner in which commune power is used to 'adjust' the POS, 'modify' building plot regulations, commence works in the absence of permits, allow an approval process to continue for 18 months while these progress, ignore or bargain away transgressions²³⁴ of the plan and regulations by the developer, and use the AFU to transform Petiteville's territory. Clearly the land underwent a process of soft transition, but that this was aided by the Maire's foresight over this, is undeniable. What is of concern is that, ultimately, raw pursuit of profits rather than concern for environment, aesthetics, or good development drove the use of these powers and capability. This may have brought benefit to the wider public via the commune's share of profit from the transaction. It most probably helped the Maire's image, especially in the provision of HLM social housing. It certainly pleased the landowner friends who made substantial gains from the exercise. But it did not necessarily benefit the immediate local community, as demonstrated by the objections received, for example, on traffic grounds. Combining AFU and commune powers equates the situation to that of Grandeville's ZAC. The decision process is not plan driven, policy is adapted to enable the town to profit from the scheme, and negotiation is kept inside the town hall, with the Maire and his team again becoming the effective applicants. This further suggests the emergence of a new model of the decision process.

10.2.2 *Practices - locating the decision and process*

Neither plans nor rules were strictly applied. Although used at the discretion of the Maire and commune, they did provide some form of framework to direct if not govern the process, setting this somewhere between *discretion judgement* and *checks & balances*. Private and municipal profit appear as the prime motives, but the provision of social housing, even if intended to enhance the Maire's image, gave some welfare status to this, moving the decision location toward the top of quadrant 'C' on the matrix. The use of special rules, like the AFU, and the internalisation of most processes, kept practices from the public gaze, rating transparency at 1. However, as this is a very small town and some benefits flowed to the population, equity scores 3.

10.3 Fleuvaine's Hotel Neuve (Case F-03)

Fleuvaine's 50,000 plus inhabitants form part of a larger urban area. Its three sectors comprise the large historical and administrative heart which climbs the hill to the north of the *Fleuve*, the northern quarters built since the 1960's, which encompass two large industrial areas, and the more recently urbanised, predominantly poor area on the southern bank of the river. Set on a good main road and motorway network, its location is favourable for industry, tourism and leisure. In response to structural change and in pursuit of its expansionist policies it is developing several big projects: a 3rd bridge, a university, and gentrification of its older areas. The case concerns the redevelopment of a disused motor repair garage and large detached, heritage quality, vacant house, as a four star hotel.

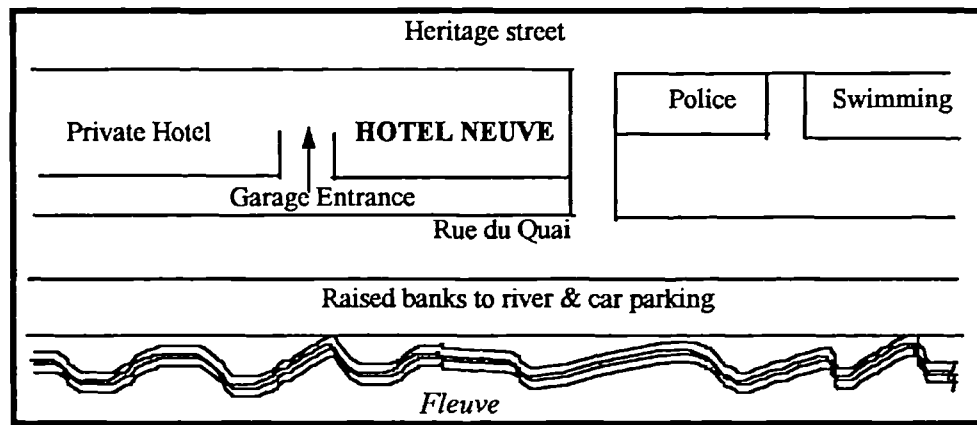
²³⁴ This is apparently a growing problem throughout France. Once constructed a building becomes the 'rule'.

DETAILS - case F-03

| | | | |
|----------------------|---|-----------------------|---|
| Site area: | 2,553 m ² | Site Type: | redevelopment |
| Dev. Type: | Leisure - 96 room hotel | Location: | centre peripheral & riverside |
| Planned use: | Existing use | Policy use: | safeguard heritage |
| Actual use: | Disused (motors & house) | Outcome: | change of use |
| Project idea: | 1989 | Application: | 1991 |
| Decision/s: | 1989, 1991, 1992 | Decision type: | policy & negotiation |
| Actors: | developer, financier, 2 architects, vice Maire heritage architect | Agencies: | municipality, atelier public d'urbanisme secrétaire général adjoint, Architect des Bâtiments de France ²³⁵ (BF), Old Town Association |

Time diagram - case F-03

| 1977 | 79 | 82 | 89 | 91 | 92 | 93 |
|--|--------------------------------|---|---|---|---|----------------------------------|
| / | // | /// | ////// | // | / | / |
| Area declared Monument of property Historique | Social housing Co. buy part | (decentralisation) use study states preservation as 'public equipment' Expropriation threat | New local government policy for tourism Hotel required. Land exchanges gives town ownership | Declassify road. Sale to hotel developer decided. Social housing Co sells to LA who sell to Dev. Application | Permit granted EIS Demolition permit Permit transferred to financier Building starts Sept. | Hotel opened May PdeS adopted |

**Figure 48** *Fleuvaine's Hotel Neuve***Synopsis - case F-03**

In 1977, under the 1962 *Loi Malraux*²³⁶, an ancient quarter of Fleuvaine was formally designated a *Monument Historique*. Within this area, in 1979 the local HLM, in which the town was a shareholder, bought an old house for redevelopment as social housing. At that time, it seems, the town was not much concerned about its historic fabric and, under this *Loi*, placed in hand a '*Plan de Sauvegarde*' (PdeS)²³⁷, which allowed it to re-designate certain areas within the quarter.

However, in 1982/3 an associated impact study of the adjacent development of a police station and public swimming pool, recommended, *inter alia*, preservation of the property to protect the entrance to the town's historic core, recreating the link road between Rue du Quai and Heritage Street, and developing houses and shops along the latter. Thus, the eventual '*Plan de Sauvegarde*' designated the house and an adjacent motor repair garage as 'public equipment'.

Although this *Plan* was not formally adopted, flush with its decentralised powers, and by specifying social housing as their reason for acquisition, Fleuvaine was able to threaten the neighbouring owner of the motor

²³⁵ Approval of the *Architecte des Bâtiments de France* is required if the new building is within 500 metres of an historic monument.

²³⁶ André Malraux was minister in de Gaulle's administration

²³⁷ *Plan de Sauvegarde et de Mise en Valuer* (PdeS), similar to conservation area plan.

repair garage with expropriation if he refused to sell to it. He entered negotiations, but the price could not be agreed and the scheme lapsed²³⁸.

In 1989, a new local government was elected and a friend of the Maire's, a well known architect, asked to establish an Atelier (office) to look into architectural issues, improve conditions, advise on future development, etc²³⁹. Such a task was outside the capabilities of the Technical Services department.

Economically the town decided to pursue tourism. Finding that visitors were sleeping in nearby towns rather than Fleuvaine, they perceived their town as short of hotels, especially those of higher standard. Discussion were opened with the hotels division, Natho, of a national group well known to the municipal administrator (the *Secrétaire Adjoint*²⁴⁰). It already handled catering for the town. Subject to the town providing the site, simplifying procedures and handling all administrative changes, Natho proposed two locations for a four star hotel. One of these included this, by now derelict, house and the garage. Neither the hotel development opportunity nor any site were ever advertised. No one else was approached and negotiations were conducted confidentially.

Fleuvaine now set about assembling the site, acquiring the property and revising plans to accommodate the proposal. To avoid delay and related problems of acquisition, in 1989 it swapped the former police station, which it owned but did not know what to do with, for the garage site, the owner still believing this being for social housing. In 1991, under the *Code de l'Urbanisme*, the link road was de-classified, allowing it to be included in the project area, and the old house was bought from the social housing company.

By January 1992, after appropriate formal resolutions of the full council, the town was able to sell the whole parcel to the developer. This was without 'bonus', i.e. subvention or other incentive. The sale was conditional upon application being made for a 4 star hotel within 3 months, but no other safeguards were taken, the town seemingly relying upon Natho's reputation. However, even though land ownership had transferred to the developer, Fleuvaine was still able to exercise a considerable amount of influence via the resurrection of the informal PdeS, being able to amend or enforce this virtually as they wished.

Before the first application could be formally accepted, the Maire stepped in to reject the proposal. Only when a revised application had been unofficially agreed was it allowed to go forward. Even then much negotiation and adjustment ensued. For example, apprised of the real nature of the development the former garage owner raised objection and demanded changes in the design to provide him with access and parking spaces for his adjacent, retained property. He could not extract more money, but could potentially have had the transaction voided by the Administrative Court on the grounds that the negotiations had been for the use of the house as social housing. Also, when tenders were received for the building contract, the developer got a shock. Prices were 30% higher than their budgets allowed and design changes, including the removal of the complete top floor, were required.

Eventually separate applications to develop the hotel and demolish the house, considered uneconomic for retention within the development, were accepted. In granting approval it seems that several short cuts were also accepted. For example, just 2 days before the end of the 6 month examination period for the application, the Préfet discovered that, because of the proposed PdeS area, an impact study, specifying how the building was integrated, the consequences for neighbours, etc., was required under the *Code de l'Urbanisme*.

Carried out by the architect employed by the hotel company, his 'nil' impact report was received just in time to allow the permit to be granted. This clearly ignored, for example, that the building obscured a window from the adjacent house, a neighbour right protected by the *Code de l'Urbanisme*. The owners were bought off by the developer to prevent them lodging formal appeal to the Administrative Court²⁴¹ who could have nullified the permit. Likewise, the demolition permit was given before the relationship which the development would have with the revised PdeS could be properly considered. (Strangely, neither the application nor the permit for the demolition were found in the file and the head of the technical department²⁴² was very reluctant to allow access to this, even though this is a document of public record). Additionally, since the design did not respect the protected area or its classical architecture, it was only possible to permit this because the approval of the PdeS had been delayed.

²³⁸ Expropriation is a very long process, commonly taking 2 years or more, even when everything is agreed.

²³⁹ The *Secrétaire Adjoint* could not understand why this was a private, independent office. From January 1994 it became a municipal office, its members becoming civil servants (without examination).

²⁴⁰ *Secrétaire Adjoint*: municipal, regional or departmental civil servant who handles administrative matters.

²⁴¹ Unlike in the UK, where grant of permit can only be appealed by the recipient, anyone adversely affected by a development has up to 2 years after grant of permit in which to appeal/complain to the Administrative Court who have the power to set this aside.

²⁴² Hearsay is that he is corrupt and commonly takes a 10% 'fee' on each application.

Ultimately, with the concurrence of the *Architecte des Batiments de France* (ABF)²⁴³ to a 'trade-off' of demolition for design changes, the *PdeS* was formally adopted 6 months later. Even so, the height limits for the new buildings were exceeded; and a public enquiry - necessary under the *Code de l'urbanisme* for land not covered by a POS or other official urban document and forgotten by the administration - had to be rushed through. The Old Town Association, heritage architect, ABF and others also made their demands, but there were no public objections. Much negotiation was necessary to resolve all the problems before the final approval could be given and the permit transferred to a mortgage company, run by another friend of the Maire's, as some form of security.

When construction works eventually started, in September 1992, they progressed surprisingly quickly. The hotel opened for business 9 months later, in May 1993.

Figure 49 Synopsis of case F-03 - Fleuvaine's Hotel Neuve

10.3.1 Issues and processes

This is another case where local officials were most reluctant to talk and allegations of corruption were made. Although there are question marks around the status of the *Plan de Sauvegarde et de Mise en Valuer*, it is clear that this was accepted and projected as being the ruling plan. However, to enable the project to proceed without undue delay it could not be fully respected, which caused objection. Its validity, therefore, had to be thrown in doubt, necessitating a public enquiry.

It is also a further case where, as well as providing a site assembly facility for the developer, the town could be seen to be acting as entrepreneurs in pursuit of the new Maire's objectives. The private sector recognised and used this to advantage. Offered a negotiated project it said "*We'll co-operate if the town sorts out any problems and makes it easy for us.*" They selected the site and the town became the master developer, using its battery of instruments - acquisition, planning, and direction - to deliver this. Although the hotelier handled detailed designs, applications and related negotiations, they acted effectively as the town's agents who, for all intents and purposes, had guaranteed permits. The decision process resembles an autocratic land owner's determination of land use, with the apparent coercion of two architects to co-operate and the (illegal²⁴⁴) change of use being unchallenged. This again suggests an alternative model; it is not plan but policy led, with a form of internal negotiation in support of this.

10.3.2 Practices - locating the decision and process

Whatever the prevailing plan, the site had lain disused and in an increasing state of dereliction for a very long time. Policy and negotiations apparently addressed both the wider town public good and local interests, but this involved at least the free interpretation of rules and possibly their wrong interpretation or even wrong use. But to do so Fleuvaine needed to satisfy commercial and profit interests. This, it seems, was achieved more through negotiation between the actors than by any specific regulatory control. Indeed, such regulations as were brought into play appear to have been used as bargaining counters. Apart from the general policy aim of attracting tourism, there seems to have been no discussion of a hotel development policy, at least not before this rather *ad hoc* decision which effectively marshalled private resources to the new Maire's goals. Both decision and process are, there-

²⁴³ *Architecte des Batiments de France* (ABF): national heritage architect

²⁴⁴ Depending on the status of the *Plan de Sauvegarde*

fore, considered to locate toward the upper right sector of quadrant 'C' on the matrix. Practices were covert, *due process* lacking, transparency scores 1. However, due to the location, where Fleuvaine owned several adjacent properties, few people were directly affected. Since the immediate neighbours had used coercive aspects of the system to protect their own interests, the question of equity is posed at the *quartier* level. There, since the scheme had a neutral if not beneficial impact, equity scores 4.

10.4 Sudlieu's luxury apartments (Case F-04)

Elected for his 3rd term in 1989, because of his authority and the way he took decisions, Sudlieu's Maire was known locally as 'King John'. In addition to being Maire he was also president of the Administrative Council of the SEM, president of the Agence d'Urbanisme, and looked after the town's Department d'Urbanisme himself, without a deputy in this role. Staff and outsiders expressed a liking for the way he operated. Roles were well defined and commercial organisations knew exactly who to approach with problems, which made it easier to work efficiently.

The town's central area is divided by a river, giving the western part more of a suburban character. Whilst not classifiable as 'inner-city', over the years this had become run down, despite efforts since the '60's to introduce improvements. Although these had been mainly of a housing nature, the city had progressively purchased property in anticipation of future development. Prompted by the 1982 census, which showed outward migration to surrounding towns, in 1988 the Maire obtained council and Préfet approval to a DUP²⁴⁵, enabling control to be exercised over the land preparatory to designating a ZAC as part of a major public sector led project, as might be found in the Netherlands. The case site forms part of the eastern end of the ZAC.

| <i>DETAILS - case F-04</i> | | | |
|----------------------------|---|-----------------------|---|
| Site area: | 107,000 m ² | Site Type: | Redevelopment |
| Dev. Type: | 76 flats, 3,043 m ² | Location: | North Central |
| Planned use: | Mixed | Policy use: | housing |
| Actual use: | Mixed housing/commerc'l | Outcome: | ZAC prepared and implemented |
| Project idea: | 1987/9 (competition) | Application: | 1992 & 1993 |
| Decision/s: | 1992 & 1993 | Decision type: | policy (ZAC) & negotiation |
| Actors: | Maire, private architects, developer, town architect, opposition politician | Agencies: | Council, SEM, Architecte des Batiments de France, |

| <i>Time diagram - case F-04</i> | | | | | | | | | |
|---------------------------------|--|--------|------------------------|-------------------------------------|---|---|--|---|---|
| 1960's | 1970's | 1982 | 88 | 89 | 90 | 91 | 92 | 93 | |
| / | / | / | / | / | / | / | / | / | / |
| Area degrades | Part improvements SDAU 1977 POS 1979 | Census | DUP Impact study | ZAC competition DUP approvals | Pre-studies given to SEM ZAC approved | Infrastructure developed by SEM More land bought | 1st application made and withdrawn | 2nd applic'n Approval - not agreed by ABT Land sold to developer. | |

²⁴⁵ DUP = Public Utility Declaration designating land within a defined area as being needed for such works and giving the right to buy and even expropriate all such properties.

Synopsis - case F-04

Occupied since the middle ages, this eastern end of the ZAC had at one time been an island and channel in the river. Progressively filled in through industrial and commercial activity, the channel was built over in the 19th century by the *nouveau riche*. their substantial houses complementing several remaining half timbered properties. As the new city centre developed on the other side of the river, the area was effectively 'forgotten' until the 1960's. Then several social housing projects contributed to changing its character. As motorised traffic increased in the 1970's and 80's the bridge and old routes through the area became bottle necks and safety hazards, forcing public infrastructure and industrial/commercial location decisions which altered the character of the area. To address these and improve road connections with the rest of the country, were main objectives of the ZAC.

From the large number of 43 initial applications, Sudlieu selected 7 firms of architects, based on their previous experience, to compete for the ZAC. In November 1989 a Jury²⁴⁶ appointed by the council, chose a famous French architect, giving him effective powers totally to re-plan the largest possible area, *as selected by him*. The 8 'losers' each received FF150,000 compensation. The local SEM was asked to conduct necessary technical and financial studies, and to acquire the necessary additional land. By May 1991 both council and public enquiry had approved the architect's PAZ. Demand for large, family size flats, having grown since the mid 80's and, adjacent to a wooded area alongside the river and arguably one of the best available sites in the town, this section was designated in the ZAC for luxury apartments.

Although the town already owned several properties in the area, it was reluctant to use its powers of expropriation to acquire more. In describing this site the architect therefore deliberately excluded an adjoining area where private owners were objecting to the ZAC taking their gentrified²⁴⁷ properties. Since this was affected by the DUP, the municipality, it seems, were playing the long game. It was anticipated that these owners would not easily be able to sell to anyone else and that the town would be able to buy them out over a period. Thus, that area was effectively 'reserved' for future redevelopment.

Of the land required for this project, only one parcel was not under municipal control. Occupied by a school, the SEM arranged to exchange this for an alternative property within the ZAC, proceeded to install the necessary infrastructure, and made the land available for re-sale. However, due to the market downturn, there was little interest in such a high quality project.

At the specific invitation of the Maire one developer, the regional subsidiary of a large national group which did a lot of work for and in the town, eventually came forward. In discussions with the Maire, who was concerned to ensure that the ZAC got off to a good start, it agreed to treat this as a form of 'Flag Ship' project. The developer's own architect prepared and submitted proposals, but disagreement ensued with the ZAC architect over the shape and modern design of the building. Commercial considerations had dictated a somewhat utilitarian approach to this, rather than concern to respect the improving character of the area.

In late 1992 the first application was withdrawn and a second, submitted in January 1993, was considered by a meeting of the Maire, the ZAC architect and the ABF, who was also against the design. Nevertheless, exercising his almost absolute powers and here acting in his urbanisme role, the Maire granted the permit. The land was then sold to the developer and work started in June 1993.

But the market had turned down, demand was weak, necessary selling prices high and progress slow. In mid 1995 several apartments remained unsold.

Figure 50 *Synopsis of case F-04 - Sudlieu's luxury apartments*

10.4.1 *Issues and processes*

The choice of this development forced consideration of the wider ZAC. Most informants agreed that its use was appropriate but, whilst not doubting the superiority of his proposals, some suggested that the architect might have been chosen in advance of the competition - the addition of a famous name being an important consideration. It was also implied that there may have been more behind the sale

²⁴⁶The Jury comprised 4 deputy mayors and the deputies for building & patrimony and traffic & roads, the architectural counsellor for the Department, the Architecte des Batiments de France, the chief inspector of Historical Monuments, a journalist (architectural critic), a sculptor, and a member of the opposition.

²⁴⁷Gentrified: Improvements to property which occurs through an influx of middle class residents to change the character of a previously working class area.

to the developer than its being the only one interested. Whatever the case, the use of the ZAC and its associated instruments to supplant other plans has become common place in France. While the ZAC mechanisms are important, the fact that the power to use them directly has been passed down to the local level allows a town, and its Maire, to do almost whatever it/he wants, for example to take a developmental/entrepreneurial approach as in this case. But, it seems, there is growing unease about this. An increasing number of people suggest that it is used illegally or to support illegal practices. Together with the SEM it appears to be used as a tool to facilitate development without looking for alternatives, even though a ZAC may prove more difficult to revise than the POS. This does not give the depth of detail often employed in a ZAC, which provides a different, more rigid level of planning than a POS²⁴⁸. Yet, as the case illustrates, even this is open to negotiation, with the Maire having been persuaded to grant permission against the views of the ZAC architect and the ABF. As with case F-01, the decision processes were firmly under the Maire's control. The town acted as land owner applicant, master developer and even entrepreneur. Agreed policy objectives were satisfied both through the PAZ and by inducing the private sector to negotiate within the framework of the ZAC. However, policy and negotiation at least form part of what increasingly appeared to be a public sector led model of the decision process.

10.4.2 *Practices - locating the decision and process*

As noted above, the case decision has to be assessed alongside that of the ZAC. Driven by wider public and town interests, this quite deliberately disadvantaged some members of the local community, ignoring their objections. The interests of image and early success was then aligned with profit considerations, and placed above the ZAC 'rules', which had themselves replaced the original POS or other 'rules', when commercial aspects of design were considered. Together these occurrences place the decision toward the bottom right of matrix quadrant 'C'. Although the competition and ZAC procedures are supposedly open, even they are questionable and practices within them far from clear. Given the town's other agendas, e.g. future acquisitions, they score transparency and equity at 3.

10.5 Charlèsville - development in a French mid sized town (Case F-05)²⁴⁹

Charlèsville can trace its history to the 12th century. Little affected by 19th. century industrialisation, its present form was determined between the two world wars. Heavily influenced by agriculture and trade, today its 45,000 inhabitants are supplemented by a further 15,000 within the agglomeration. Suburban growth, mainly to the east and north, occurred after 1922, when the first town plan was created. This introduced a social sector to house foreign immigrants. Whilst the medieval and baroque centre deteriorated, this growth increased after W.W.II, with '*building contractors (having) made the town*' in the years after 1950. The '*Plan d'Urbanisme Directeur*' of 1959 replaced the first plan, permitting development of floodable areas to accommodate the growth in large blocks of flats.

²⁴⁸ Robert, 1994, personal communication.

After 10 years gestation a POS was approved in 1981, only to be replaced in 1986 to reduce complexity and "*too hard rules of construction*". These plans and changes show the interweaving of *urbanisme* with politics through which, between 1977 and 1983, strategic land purchase objectives were developed by the town. These enabled the creation of circular truck routes to facilitate the restoration of the town centre. After 1984/5, private initiative came more to the fore. In particular the 1986 POS was intentionally kept vague, allowing legislation to be 'played with' by Charlèsville's centre left government. However, in this town there is a centuries-old tradition of some families being linked with key functions. Marriages are still organised between important business and political families and power still resides with former members of the resistance. As a former town planning deputy said, in Charlèsville "*... the operations and families are 'crossed'.*" He was dismissed in 1983 because he refused any longer to be involved in 'corrupt' operations.

| DETAILS | | | |
|---------------|---|----------------|---------------------------------|
| Site area: | 12,385m ² | Site Type: | Urban |
| Dev. Type: | Residential, 75 flats | Location: | 15 mins south of centre |
| Planned use: | urban park | Policy use: | unclear if any exists |
| Actual use: | unused private park | Outcome: | use changed to development land |
| Project idea: | 1990 | Application: | 1991, 1992 |
| Decision/s: | 1991, 1992 | Decision type: | negotiated |
| Actors: | Deputy Maire, officer, Director SEM, architect | Agencies: | SEM, DDE, Region, |

| Time diagram - case F-05 | | | | | | | | | | | | |
|--------------------------|--|----------------|----------------------------------|------------------------------|---------------------------------------|-----------------------------------|--|---------------|--|--|---|---|
| 1971 | 75 | 77 | 79 | 81 | 86 | 88 | 89 | 90 | 91 | 92 | 93 | |
| / | //// | // | // | // | //// | // | / | / | / | / | / | / |
| Land sold to developer | Permit for offices, but only build foundations | Local election | Project abandoned Land frozen | POS created Land re-zoned | POS revised Land made 'urban park' | SEM buy land. Applic', refused | Permit for offices. Project abandoned | Pilot project | POS revised 2 applic'ns 2 more " | Dept head refuses to give permit Meeting with polit'ns Permits given | Applic'n for subsidies Building starts | |

| Synopsis - case F-05 |
|--|
| <p>To the south of the town, <i>Parc de Bois</i> was in a residential suburb, composed primarily of detached and small group houses with related facilities. It benefited both from green spaces and a main road link to the historic centre, 15 minutes drive away. Originally a 'bourgeois' property, the site was sheltered by rare, protected, trees, but suffers from noise from the main road.</p> <p>In 1971 the land was bought by a Development Co. owned by the then deputy Maire. He obtained permission for an office development. This was started but, for some unknown reason, abandoned in 1979. Worried that a road improvement scheme might take the land, in 1981 he arranged for it to be re-classified in the new POS as protected woodlands. After a revision of the POS in 1986 this was down classified to 'urban park' and in 1988 he sold it to the regional SEM to build its own head office.</p> <p>Operating in this and 5 other Departments, the SEM was headquartered in Charlèsville. Like many SEM's, its capital was owned by many different communes, in this case 80, including Charlèsville. It had built 25,000 homes for sale, operated in 200 communes and owned 13,000 rented houses. Perhaps more importantly, its Director was President of the General Council of the Department, whilst the President of the SEM was also President of the Regional Council, a local Maire (not Charlèsville), Director of the Department's</p> |

²⁴⁹ Once again this case is a substitution, access to the original choice having been denied after the head of department consulted the deputy mayor for *urbanisme*.

'Crédit Immobilier', the 'Coopérative Société of the HLM', and of a building company. In other words he had at his fingertips a not inconsiderable power network.

Initially refused permission for its own building, on the grounds that the use did not conform to the POS, the SEM subsequently obtained a permit to build commercial offices, believing this a good marketable proposition. But, after further market investigation, the scheme was abandoned as insufficiently profitable compared with apartments.

Backed by a pilot study prepared in 1990, the SEM then made 2 separate applications for apartments, 1 block to rent, backed by the region's assistance with obtaining social housing subsidies, and the other for sale. Permissions were delivered in October 1991, but having secured this further change of use, the SEM ignored these in favour of 2 new, very similar applications having more floor area and mass. The town's Soil and Land Service officer, responsible for technical aspects of the permit, considered the differences to be outside the 'minor adaptations' allowed by the POS²⁵⁰ and refused to issue the permit. However, after a private meeting between him, the politicians and the SEM Director, in November 1992 permission was granted.

Although classed in the POS as a dense peripheral area and urban park (zone UC 1), with height limited to 2 floors, the permit allowed 3 floors. Further 'variations' to the regulations increased the gross floor area by 121m², and allowed heights of 9.6m. instead of 9 m. Although challenged by a neighbour, work began in July 1993 and was completed in mid 1994. The buildings are between 10.7m. and 12 m. high.

Figure 51 Synopsis of case F-05 - Charleville - development in a French mid sized town

10.5.1 Issues and processes

The flexibility created by leaving the POS vague seems to have been both used in full measure and exceeded. Strict interpretation of the 'Code de l'Urbanisme', for example Art. L. 123-1²⁵¹ would have made it illegal to permit the project. But the SEM is a very powerful organisation and, together with the earlier account of local power and influence, the situation appear to have been potentially excessively reliant on their mutual involvement²⁵². The abandonment of earlier commercial developments and the SEM's switch to housing suggests they used much muscle to overcome an otherwise financially unviable site (although viability was not investigated). In this respect, the Regional Council's intercession in the SEM's applications for social housing subsidy on the site is also notable. Together they highlight the importance of property markets for development outcomes. Against this background the former town planning deputy's statement that it is the "*Building trade sector which makes (Charleville)*", takes on new significance. Directly or not it would appear to have guided the municipality, although its interests are mainly financial, following such fashions as are profitable.

²⁵⁰ The Town Planning Law 'Droit de l'Urbanisme' pp 585-586 states: "With the advice collected, the service in charge of the investigation examines if the construction or the works projects are in accordance with the rules of the POS. If it is needed, it can conduct the minor adaptations to the POS (...) Consequently, it is not necessary to address a specific demand for the minor adaptations and the dispensations". Additionally Article L. 123.1 of the Urban Code mentions that, in order to define land use, they must (art.1): "delimit urban areas or areas to urbanize, taking care of the needs in housing employment, services and transport of the actual and future population. The area delimitation takes in consideration the agro-economic value of the lands, the agricultural structures, the land which produces superior quality of food, the existence of natural and technological signs, the presence of important special equipments (...)" Overall the article confirms that: "The rules and easements precised by a POS can't be subject to any dispensation except 'minor adaptation' which are necessary considering the land nature, the parcels shape or the nearby construction aspects." (Translation: N. Charlès).

²⁵¹ Art. L.123-1 "It is not a minor adaptation to deliver the authorisation for building 8.8m if the maximum size allowed by the POS is 6m or for building 9m. when it this is specified as 10.8m (para 3.)" ALSO Art. 17 states "it is forbidden to build a construction of 11.3m instead of 10m. even if the aim is to harmonise the building with the nearby construction." (Translation: N. Charlès).

²⁵² In Renard's (1992) view, this is the whole point of the SEM mechanism.

Unlike the other French cases, the town appears to have had no direct interest in the development. But they did have this indirectly via the SEM. Consequently the decision process takes on many of the same characteristics. It was clearly not plan led, policy was that which best suited the SEM, and negotiation was an internal matter between the related SEM and municipal (political) power elite. Whilst perhaps bearing closest resemblance to the negotiation model, once more an alternative process seems to have been present.

10.5.2 Practices - locating the decision and process

Providing good reasons exist, the law allows each new local administration to review and make necessary changes to the POS. Here background information suggests such latitude may have been applied for other purposes, especially to gain flexibility. Within the case, 'rules', even those for technical standards - seem to have been disregarded. However, although discretion and judgement were pushed aside, the rules did provide some form of check upon the negotiations which characterise the decision process. Despite the danger of the quasi-municipal co-operative nature of the SEM clouding the nature of its' power, this power was undoubtedly commercial, being heavily influenced by the ability of the property market to deliver the greatest profit (or avoid loss). It also happened to be supportable in the interests of both the Maire's and the SEM's political image by securing social housing. Together these forces suggest that this decision falls somewhere inside the bottom right of quadrant 'C' on the matrix. Over many years the processes accompanying change in the land's status had been at best opaque. Despite the checks imposed, transparency can only score 3. If the 'rules' are supposed to protect equity, then the inability of the head of the soil and land department to uphold them, coupled with the overriding of objections and the lack of legal challenge, rate equity at no more than 2.

10.6 The French development permit decision process

Comprising 2 ZAC's, 1 AFU, 1 POS, and 1 *Plan de Sauvegarde* or conservation area, in a variety of towns across the country, these five cases suggest that, far from being plan led, as suggested by the literature, a varied range of French decision making processes exists. They also suggest that these may have some common features, for example, they all show a much more consistent interaction between political leaders and local development interests than was apparent in the English cases. Together, it seems, it is these interactions which (re)define the 'public interest'. In itself the general reluctance to talk about cases, and actual refusal to allow access to files in two of them, something not encountered in England, perhaps says something about the secretive nature of these relationships as well as the decision processes. All took place within a much tighter nexus of political and development connections than appears to exist in England. This situation is somewhat at odds with Booth (1985,19-23; 1987,17) and Punter's (1989,204) observations. For them the power of Maires was constrained by administrators and Prefect. But the view expressed here does seem consonant with the way municipal behaviour has changed since decentralisation in 1983. As Acosta & Renard (1993,70) note, as the state has moved from being a controller to being a referee, with national policy shifting to

favour private enterprise (p.6), so municipalities have increasingly sought to determine what to do and when to do it. Motte (1996) recognises the importance of these changes as they relate to plan making, noting that technicians have become more an integral part of the development process. Understanding of the situation has, it appears, moved on.

10.6.1 *Decision models and French practices*

Yet again the cases illustrate that, as in England, land passes through 'maturing circumstances' (Goodchild and Munton 1985) before development occurs. In each case, the long process of gradual change behind this transition from one use to another shows how informal but crucial decisions are often taken years before any application has to be considered. To realise applications, plans and other 'rules' are then treated not as formal plans to be followed, but as issues to be negotiated or ignored.

As Table 19, indicates, 'rules' considered inappropriate to the changed circumstances are not respected, but replaced, freely interpreted, or used as bargaining counters, for which they provide a negotiating framework. As in England, this decision process is seen as a combination of policy and negotiation models (4.3.1), but with even less

| The French permit decision process | | | |
|------------------------------------|------|-----------|--------|
| Case | Plan | Negotiate | Policy |
| F-01 | | 1 | 1 |
| F-02 | | 1 | 1 |
| F-03 | | 1 | 1 |
| F-04 | | 1 | 1 |
| F-05 | | 1.5 | 0.5 |
| Totals | 0 | 5.5 | 4.5 |

Table 19 *Decision models and French practices*

inclination to consider extant plans. Accordingly, any notion that, where major private projects are concerned, the 'rules' protect the public against authoritarian excess, or even illegal change, must be severely questioned.

10.6.2 *French rules -v- French interests*

Decisions on major commercial development projects in France seem to revolve around the cartelised politics of commercial negotiation. The decision matrix (Figure 52, p.207) represents this well.

Whereas in England it is possible that municipalities may seek to attract desirable development, in France it seems that development is treated as any town's legitimate enterprise, with each Maire being the leading entrepreneur. At least for the period of this study, autonomy²⁵³ appears to have become local autocracy, often supported by town Maires holding numerous additional positions of power. Using all the instruments at their command, working with and through their contacts, it is possible for them to manipulate and exercise considerable control over property ownership, markets, forces, and values to a degree unseen in the English cases. Commonly the aim is to yield that which a Maire deems of worth to the town, be this profit, competitive edge, amenity, image or whatever 'policy' may be. Much as in England, policy has become the driving force. As frequently was, and still sometimes is, the case in England, the French town is often the master developer, providing serviced sites for contract developers who negotiate for the Maire's goodwill and co-operation. Developers are his agents of realisation. Sometimes they appear to form part of the decision power elite which, through

²⁵³ i.e. since the decentralisation of 1982/3

covert, internal negotiations, between people who, theoretically, are, or ought to be, separated by clear regulatory relationships, determine a town's fabric and future.

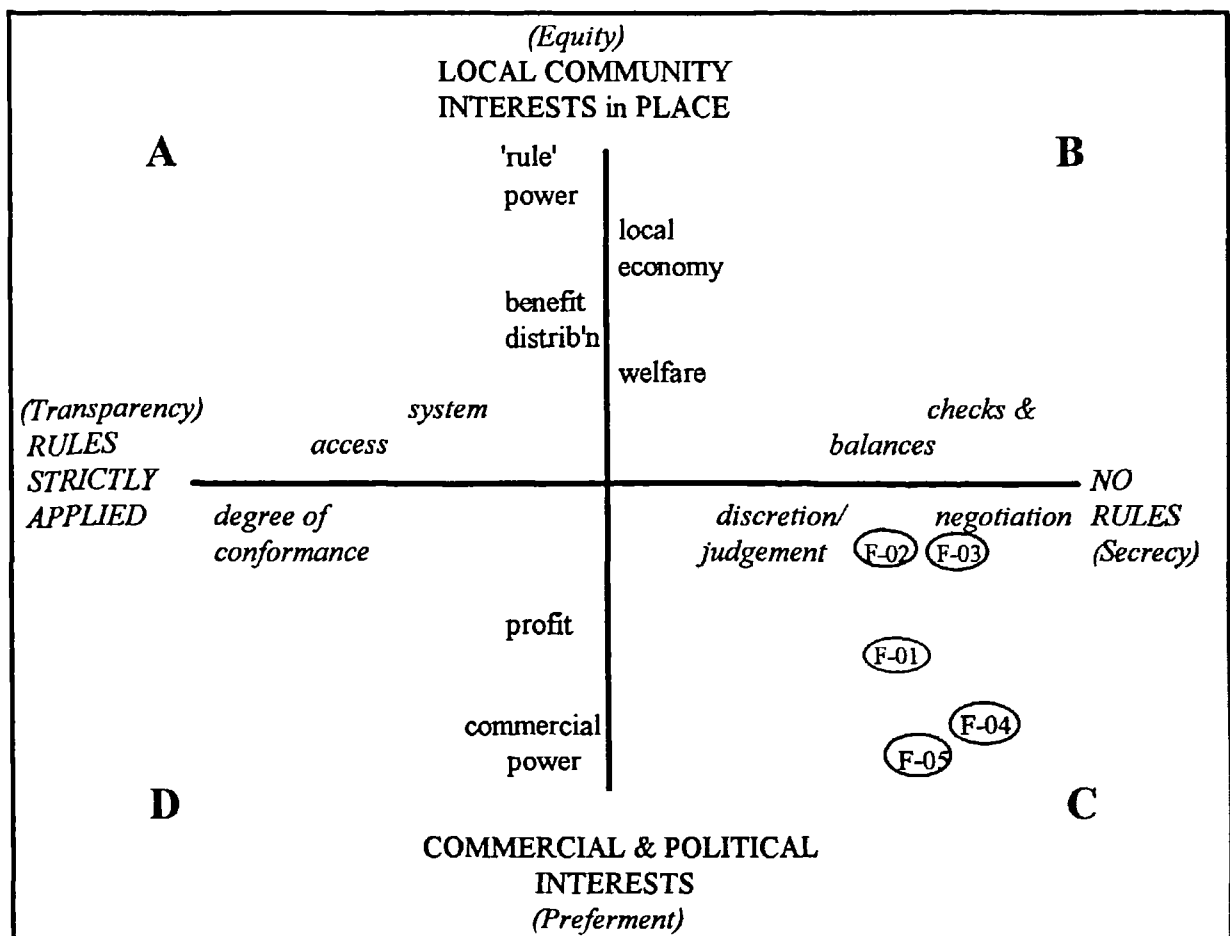


Figure 52 *Matrix of rules, interests and power in French land use decision making*

This presents a new model of land allocation at the *development moment*, i.e. at the moment of giving the development permit. One in which private land ownership may be unimportant, but municipal control, direction or acquisition of this may, at one and the same time, deny and benefit from markets²⁵⁴. One where political favours and commercial ideas may be more important than land use trends. And one where planning principles as well as 'rules' may be subjugated to the demands of financiers, be they private or governmental, and the general objectives of the 'enterprise'.

10.6.3 Ranking of factors in the French decision making process

These views are further supported by the factors listed in Figure 53, p.208. As the individual driving the process, the Maire may capitalise on the long process of land-use change. In England, at a lower level of importance, this appears to be more the function of the developer. Indeed, as seems the situation in cases F-01, F-02, F-03 and F-04, as an entrepreneur the Maire may identify the potential and take advance decisions several years before any application is made. In contrast with English reactive processes, he may possibly even take proactive strategic steps to manipulate the 'rules' in advance, if this is necessary.

²⁵⁴ e.g. by artificially 'blighting' property its value may be depressed, yet when re-planned its value may soar.

| Factors | //French Cases | F-01 | F-02 | F-03 | F-04 | F-05 | Count of factor | Total weight | Av wt by count | Av wt all 5 cases | Rank by Count | Rank by Av Wt of 5 |
|---------------------------|----------------|------|------|------|------|------|-----------------|--------------|----------------|-------------------|---------------|--------------------|
| Individual driven | | 3 | 3 | 2 | 3 | 2 | 5 | 13 | 2.60 | 2.60 | 1 | 1 |
| Long process of change | | 3 | 2 | 2 | 3 | 3 | 5 | 13 | 2.60 | 2.60 | 1 | 1 |
| Rule manipulation | | 1 | 3 | 3 | 2 | 3 | 5 | 12 | 2.40 | 2.40 | 1 | 3 |
| Image promotion | | 3 | 2 | 2 | 3 | 1 | 5 | 11 | 2.20 | 2.20 | 1 | 4 |
| Rule & policy conflicts | | 3 | 3 | 2 | 1 | 2 | 5 | 11 | 2.20 | 2.20 | 1 | 4 |
| Policy issues | | 3 | 2 | 3 | 3 | | 4 | 11 | 2.75 | 2.20 | 13 | 4 |
| Rules over-ridden | | 2 | 2 | 1 | 2 | 3 | 5 | 10 | 2.00 | 2.00 | 1 | 7 |
| Negot'n based process | | 1 | 1 | 2 | 2 | 3 | 5 | 9 | 1.80 | 1.80 | 1 | 8 |
| Policy based process | | 2 | 2 | 2 | 2 | 1 | 5 | 9 | 1.80 | 1.80 | 1 | 8 |
| Societal change | | 2 | 2 | 2 | 2 | 1 | 5 | 9 | 1.80 | 1.80 | 1 | 8 |
| 'Deal' arranged | | 2 | 3 | 3 | 1 | | 4 | 9 | 2.25 | 1.80 | 13 | 8 |
| Covert process | | 1 | 1 | 2 | 1 | 3 | 5 | 8 | 1.60 | 1.60 | 1 | 12 |
| Other agenda | | 3 | 2 | 1 | 1 | 1 | 5 | 8 | 1.60 | 1.60 | 1 | 12 |
| Market pressures | | 2 | 2 | | 1 | 3 | 4 | 8 | 2.00 | 1.60 | 13 | 12 |
| Town plan out of date | | 3 | 1 | 1 | 1 | 1 | 5 | 7 | 1.40 | 1.40 | 1 | 15 |
| Corporate driven | | 1 | | 2 | 1 | 2 | 4 | 6 | 1.50 | 1.20 | 13 | 16 |
| Private interests | | 2 | 3 | | | 1 | 3 | 6 | 2.00 | 1.20 | 17 | 16 |
| Investment interests | | | | 3 | 1 | 2 | 3 | 6 | 2.00 | 1.20 | 17 | 16 |
| Regeneration pressures | | 1 | | 1 | 3 | | 3 | 5 | 1.67 | 1.00 | 17 | 19 |
| Pre-negotiation | | 1 | 1 | 3 | | | 3 | 5 | 1.67 | 1.00 | 17 | 19 |
| Corruption | | | | 2 | 1 | 2 | 3 | 5 | 1.67 | 1.00 | 17 | 19 |
| Rules frame process | | 2 | 1 | | 1 | | 3 | 4 | 1.33 | 0.80 | 17 | 22 |
| Post negotiation | | 1 | | | 3 | | 2 | 4 | 2.00 | 0.80 | 25 | 22 |
| Lobbying | | | 1 | | | 2 | 2 | 3 | 1.50 | 0.60 | 25 | 24 |
| Political pressures /el'n | | 2 | 1 | | | | 2 | 3 | 1.50 | 0.60 | 25 | 24 |
| Political interests | | | | 1 | 1 | 1 | 3 | 3 | 1.00 | 0.60 | 17 | 24 |
| Technological change | | 3 | | | | | 1 | 3 | 3.00 | 0.60 | 31 | 24 |
| Economic issues | | | | 2 | 1 | | 2 | 3 | 1.50 | 0.60 | 25 | 24 |
| Local rules followed | | | 2 | | 1 | | 2 | 3 | 1.50 | 0.60 | 25 | 24 |
| Plan & rule based proc. | | 1 | 1 | | 1 | | 3 | 3 | 1.00 | 0.60 | 17 | 24 |
| Infrastructure change | | | | 1 | 1 | | 2 | 2 | 1.00 | 0.40 | 25 | 31 |
| Planning gain | | | 2 | | | | 1 | 2 | 2.00 | 0.40 | 31 | 31 |
| Developer tactics/rules | | | | 1 | | | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Political issues | | | | 1 | | | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Appeal proc. important | | 1 | | | | | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Institutional driven | | | | | 1 | | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Speculation | | | | | | 1 | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Jobs | | | | 1 | | | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Environmental issues | | | | | | 1 | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Cmmnty interest/benefit | | | | 1 | | | 1 | 1 | 1.00 | 0.20 | 31 | 33 |
| Media influence | | | | | | | 0 | 0 | 0 | 0.00 | 41 | 41 |
| Transparent process | | | | | | | 0 | 0 | 0 | 0.00 | 41 | 41 |
| Planning issues | | | | | | | 0 | 0 | 0 | 0.00 | 41 | 41 |
| Plans followed | | | | | | | 0 | 0 | 0 | 0.00 | 41 | 41 |

Figure 53 Factors in the decision making process in 5 French cases

This highlights the conflicts often existing between 'rules' and policy, but which may be concealed by covert, internal negotiations, perhaps made more possible by changes in society, e.g. decentralisation. Such changes facilitate the making and supporting of commercial deals in pursuit of other agendas which may make the town plan appear out-dated, whether or not this is the case. In addition to the

interests of the Maire and other individuals, this allows corporate and financial interests to drive the process, leaving open the potential for corruption.

Here the regulatory system does appear to provide some form of framework to contain the worst excesses of free bargaining and negotiation, but other factors, found to be of greater importance in England, become increasingly less important. For example, technological and infrastructure change, job and other economic issues, and lobbying. The latter may be said to be present in the close relationships built around and with the Maire. Although some of these, like planning gain, may arguably be considered to be incorporated at a higher level in the Maire's policy objectives, important environmental, judicial, equitable, community, and political questions seem of concern mainly to the degree that it is necessary to 'get them straight' in order to avoid subsequent challenge. Except for special circumstances, e.g. judicial review, this is something which does not concern English local authorities and is a major difference in emphasis between practices.

Surprisingly, given the commercial nature of the processes, land speculation also seems much less prevalent than in England. At first sight this may seem to be because the system captures most, if not all, development gain for the community, although this may also be subsidised via, for example, the construction of infrastructure. However, such explanation may also not take account of the way contracting and other profits are arranged.

While it may be argued that coercion is the point of regulation, with French permit decision processes being distinctly opaque and with planning issues and media interest appearing to play no part in these, the coercive use of 'rules' to secure some further part of development 'profits' in other ways might, in some countries like the UK, be considered tantamount to blackmail and morally indefensible. This further points up the debate relating to the intended use of 'rules' and their use to gain benefits for the community, politicians, etc., a subject returned to in Chapter 14.

10.6.4 *Indicators of transparency and equity*

To model the processes involved is more difficult, but Figure 54, p.210, illustrates how they might operate. The Maire formulates policy for which, adjusted to suit principles and criteria imposed from higher levels, the backing and authority of councillors is obtained. Through his development 'team', which may include him, chief officers, private architects, the SEM, developers, and others, a development idea is borne.

Municipal technicians advise on this in relation to the

'rules', which may be influenced by consultees and past and current policy, to legitimise the manner in which the idea can be implemented - or at least minimise if not avoid such implementation being subject to valid challenge. Attempts may be made to keep matters secret, since too wide a knowledge of

| 5 French cases | | |
|----------------|--------------|--------|
| Case | Transparency | Equity |
| F-01 | 4 | 2 |
| F-02 | 1 | 3 |
| F-03 | 1 | 4 |
| F-04 | 3 | 3 |
| F-05 | 3 | 2 |
| Total | 12 | 14 |
| Ave | 2.40 | 2.80 |

Table 20 *Transparency & Equity Indicators*

proposals could restrict freedom of action.

Thus transparency is somewhat less than in England (Table 20 & Chart 5). Using mayoral powers, any 'adjustments' needed to plans and other 'rules' are then made before the developer, who may be

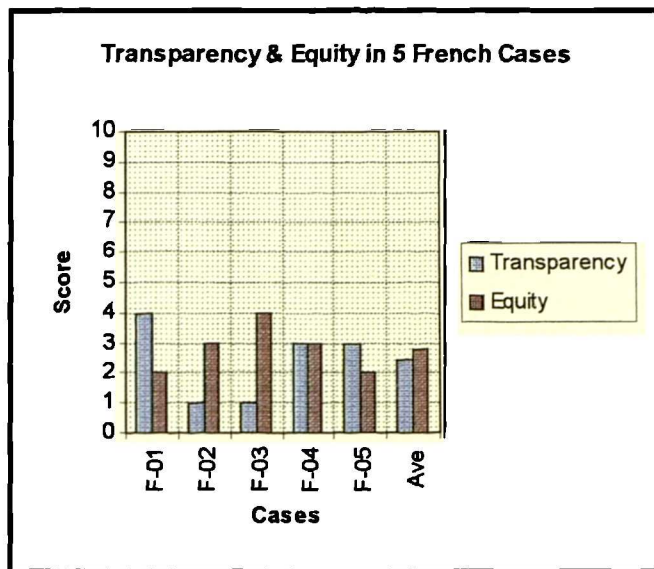


Chart 5 Transparency & Equity Indicators compared

connected to the municipality, for example by way of share-holding or some commercial arrangement, makes application. This enables the Maire, or responsible deputy or officer, to permit the development. Equity, whilst it exists in some small measure, is seen as being considerably less than in England (Table 20 & Chart 5). Like all else, it depends on the attitude of the Maire and whether such equity happens to flow from his actions, is favourable to his policies, and supports his cause. As Motte

(1996,13) emphasises, "We must underline the authoritarian attitude of the Maire in the elaboration and the implementation of the plan, as the whole process is organised around him and results from his personal choices. Moreover his personal implication in these policies is considerable."

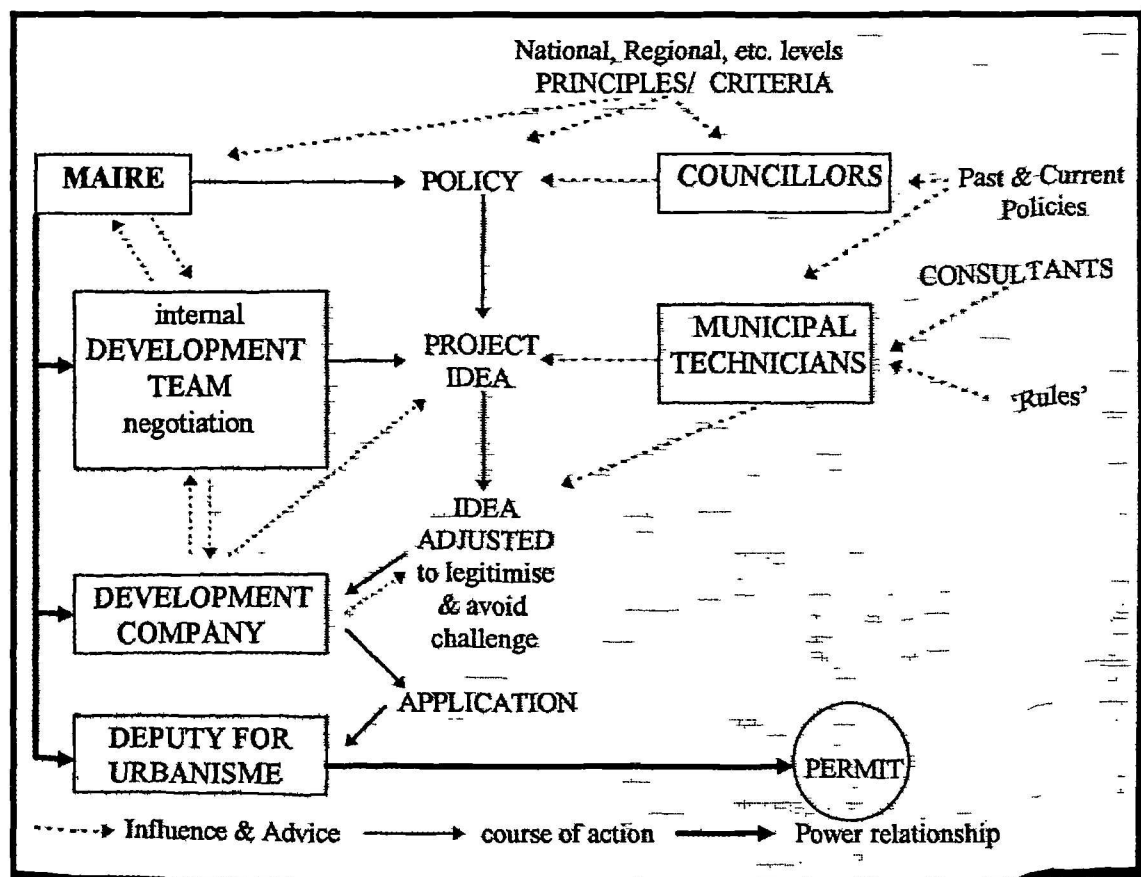


Figure 54 French municipal development cartel decision process

Central Europe

- Czech Republic & Hungary -

In 1990 the Velvet Revolution (VR) replaced communism²⁵⁵ in much of Eastern Europe, with free market systems. In the backlash against the former centralist regimes, progressively more and more duties were decentralised from state to municipalities. Along with electoral accountability, municipalities were given responsibility for their own town planning, and former state lands, often ex-military or industrial, were transferred to them. In 1993/4, during the period of this research, administrative structures in the two countries considered, Czech Republic and Hungary, were still evolving and many responsibilities remained unclear. For several years before the VR, western companies had seemed to 'sense' pending change. Many visited these countries looking for investment and development opportunities. The countries themselves responded, often with national and local promotions to attract investment, easing the way into the VR.

In the absence of appropriate reference texts, attention is drawn to the background information on the Czech Republic, Hungary and their planning and land tenure systems at Appendixes 9 & 10. Unlike the other countries considered in this project, where mature political and administrative institutions and established regulatory regimes supposedly operate, in these Central European countries planning systems were and no doubt still are evolving. Although the planning 'rules' of the old regimes were referred to and used as guidelines, changes in government agencies and legal systems had both introduced uncertainty and effectively slowed down decision making mechanisms (CE-01/2). To help understand the cases in relation to this unfolding process, this chapter should be read as a whole rather than as isolated accounts.

Adopting the revised method, adopted for the French cases (Ch.9), of spreading cases across different sizes and types of city, four studies in two cities from each country, were conducted. Lacking a range of commercial developments from which to select, some do not quite meet the 'major private development' threshold criteria but, perhaps more importantly, as established in 1.4, all were significantly important for the city. To preserve anonymity (4.6.9), cases are simply identified as Central Euro-

²⁵⁵ Generally referred to as 'communist' countries, the people of the former USSR actually considered themselves as progressive socialists moving toward eventual communism.

pean (CE)²⁵⁶. Investigated with the help of two Dutch and three local RA's, they are :-

| Case | Dev. Type | Description | Site Type | Decision |
|-------|-------------------------|--|------------|------------|
| CE-01 | Commercial | Bank | Urban | Negotiated |
| CE-02 | Leisure | Hotel | Urban | Negotiated |
| CE-03 | Mixed: cmcl, industrial | Showroom & Workshops | Urban | Negotiated |
| CE-04 | Mixed: Cmcl, leisure | Motel, restaurant, auto sales, camp, tourist centre. | Greenfield | Negotiated |

11.1 Zlonkoš

Set on a formerly important trade route to the East, Zlonkoš is 900 years old. In the 40 years before this research, its population had effectively doubled from 50,000 to 80,000 with another 20,000 daily commuters from the surrounding region. Zlonkoš was and may well still be a poor city. In the aftermath of the Velvet Revolution, the former cornerstones of its economy - the military and trade - was declining. The large industrial zone had lost much of its importance since privatisation, and unemployment was between 25% and 30%.

11.1.1 Government & Administration

The local elections of 1990 returned a liberal majority for a four year term. By secret ballot they appointed the mayor, giving him prime responsibility for city politics and housing, and three adjunct mayors with separate responsibilities: enterprise & finance; culture, health, education & sports; land use & development, and public facilities maintenance. This separation was agreed between the parties after the election. The posts were all full time - 16 to 18 hour per day - but, despite theoretical organisation (see Appendix 13) and, partly due to residual suspicions of the old regime, the municipality lacked a clear administrative structure. Previously the adjunct mayors were department heads. Now they were part of the mayor's office. No longer did they have direct inputs to administration and the hiring and firing of staff. As at the time of the research this was all controlled by the town clerk with particular reference to legal conformance (CE-01/4). Under the Self Government Act, the goal of which is to separate administration from the elected body, his position was, in theory, permanent. Additionally, given the shortage of educated personnel, in practice it was impossible to change even the key staff after every election.

Officially, municipal finance was still very centralised, coming from several sources, 90% being state funds and 10% local taxes - even less than in England. Yet Zlonkoš' actual budget showed 80% coming from the state and 20% from local resources. This reflected the extent of asset sales, e.g. of former Soviet barracks, which had taken place to support programmes. Even so, the municipality had no money. The national savings bank taking care of the budget had itself run out of funds. Social housing built for sale had found no purchasers, debts could not be paid, rents could not be raised. No social housing had been built in the 7 years preceding this study. Public opinion of the municipal authority was very negative. It was seen as a huge bureaucracy of lazy, unqualified people.

²⁵⁶ Different reference codes are used in the Appendix where countries are identified.

11.1.2 *Planning, development control, and property*

Reflecting the fact that everything used to be done centrally, there were only five or six small architect's offices in the city, indicating the paucity of current development opportunities. Even so, the Town Planning Department had sixteen personnel, seven for urban development, eight for development control, and a Chief Architect & Planning Officer (CA) in charge of both. This functional division was very unclear in practice. Due to financial restrictions, the department was two understaffed, and no computer network existed, it being claimed that this would be too complicated for the staff. Due to low salaries²⁵⁷ the CA was the only one qualified. He was the 4th in this post in the previous two years. The job was regarded as poorly paid, facing political friction, and very hard work. But it did provide opportunities to make contacts and move on to better paid private practice, as his two predecessors had done. As a result planning appeared to have no established, guiding, local philosophy (CE-01/2).

Following a 30 yr. tradition, Zlonkoš' 1987 general plan reserved land for road extensions and public development. Due to lack of finance, the detailed plans needed to control this (each costing between 0.5m. & 1.5m. units of local currency (ULC)), were not prepared. Lack of in-house skills and experience meant that preparation of general and detailed plans were subcontracted to private bureaux, many of which were re-incarnations of former state agencies. Since the VR, only 2 detailed plans had been made, one for the banks of the river and one for the city centre. In the absence of detailed plans a general ban had been put on development in the reserved areas. But the new regime had brought many pressures from the people living there for these bans to be lifted (CE-01/2).

One of the main functions of the CA's department was the preparation of decisions and (property) contracts for the mayor's signature (CE-01/1). The city also had a Department of Property Management, which looked after circa 500 Ha of former state lands and a portfolio of shares in former state companies. Most of the land was spread throughout the city in small, 2-3,000 m² parcels, although a few might have been around 10 Ha. A schedule of city owned properties was still in preparation and many boundaries remained unclear. Despite lack of expertise and information - even 'clues' - on how best to manage its property and influenced heavily by city budget constraints, a major task of this department was to provide 'economic space'²⁵⁸ and (indirectly) assist enterprises. There was no formal policy on this or on the sale of land, but the department had authority to conclude transactions upto 1m. ULC. Between 1m. & 10m. ULC the decision rested with the mayor. Above 10m. ULC the full council had to decide. However, since the CA's department had a say in how land was developed and the CA's opinion was required before any land sale took place, his views could be quite influential (CE-01/1).

²⁵⁷ Municipal wage levels were determined by the Public Administration Act and the local decree based on this Act (CE-01/2).

²⁵⁸ This is taken to mean both developing opportunities for private enterprise and supplementing funds by selling municipal property.

The conflict between these departments was poignantly noted by the property department's director, in whose view, *"The (town planning) department should be subordinated to (the property dept). The needs reach us first and we have a clear view of the possibilities. Town planners have ideas based on unrealistic expectations instead of real needs. No feasibility is involved. The detailed plan for the centre is a typical example of these unrealistic dreams. It is 'l'art pour l'art', with some theoretical backing, looking good as a blueprint, that is all."*

Acknowledging the friction, the current CA took a different view. He considered the property dept. to have no long term policy and merely to be intent on quick sales revenue.

11.1.3 The Prestige Bank job (Case CE-01)

| DETAILS - case CE-01 | | | |
|----------------------|--|----------------|--|
| Site area: | 600 m ² | Site Type: | Urban |
| Dev. Type: | 3,000 m ² commercial | Location: | Central |
| Planned use: | Public park | Policy use: | Non applicable / opportunist |
| Actual use: | Public park | Outcome: | Re-zoning, revision of detailed plan, bank built |
| Project idea: | 1991 | Application: | 1992 |
| Decision/s: | 1993 | Decision type: | Negotiated |
| Actors: | 2 Chief Architect & P.O's. Agencies: Municipality, Bank property division, City Mayor, Adjunct mayor, property department, Construction Co. 3rd parties, Property dept. director Private architect. | | |

In 1970, construction of a new highway to the East passed through the centre of Zlonkoš. The State acquired the land for the road and the plots next to it. One became a small, city centre park, zoned as such within the detailed plan. Development of some adjacent areas, covered by the same plan, had begun before the VR. Old building stock had been torn down or abandoned, and rebuilding commenced.

| Time diagram | | | | | | | | | | |
|-----------------------|--------------|---------------------------------------|-----------------------------------|-----------------------------|---|--|--|---|--|-----------------|
| 1970 | 1987 | 1990 | | 91 | | 92 | | 93 | | 94 |
| / | / | / | / | / | / | / | / | / | / | / |
| Highway to East built | General plan | Pre-VR deal commissions detailed plan | New regime elections Present plan | Bank seek plot Deal revised | Site chosen Sale agreed Park 'lost' Gen. plan revised New detail plan | Const'n Co applies. Competition & pay offs | Negotiate design. & application Theoretical permit | Agree to change permit Land sale Permit | Design change New permit Negotiate parking Public objections LA influence only over use. | Building starts |

Synopsis - case CE-01

In early 1990, just before the VR, the city commissioned a revised detailed plan for the central area. Short of funds they 'did a deal' with a state firm whereby the plan would be provided at no charge, conditional upon the firm gaining all subsequent related work. In October, shortly after the elections, this plan was presented, but the new regime rejected the 'deal' and paid off the firm to avoid ongoing obligations.

Now a condition of the State transfer of lands to the municipality required 'architectural solutions' for land use. Accordingly the plan was put to a jury who advised revision. An improved plan, specifying spacing, roads, pedestrian areas, building heights, green areas, a parking system, and distance between buildings, appeared 3 months later. Accorded the status of a legal plan, it was never formally approved. The adjunct mayor considered this preferable, leaving options open and providing flexibility. Legally an official plan should have been made, but, *"since there has been too little time (since the VR) to develop strategy, there (was) no big hurry to do this."* (CE-01/2).

In late 1990 a newly privatised bank, free to expand commercially, approached the city's property department for a site. With Zlonkoš keen to attract such investment, possibilities were narrowed to 2 areas. Although it meant losing the park, the bank were encouraged toward the central area, this being seen as the opportunity to anchor and secure completion and take up of adjacent developments as well as obtaining further facilities. The new detailed plan, zoning the park as 'public facilities' was presented to the bank as the formal plan and agreement was reached in principle for the development.

Now the bank did not require the whole area, but a legal restriction prevented municipalities sub-dividing their land. With the post VR land registry somewhat chaotic, the land was re-measured and, conveniently, found to be already split into 2 plots - 1 conveniently suited to the bank's requirements! Since applications could only be made by, and permits issued to, landowners, ownership of the land placed Zlonkoš in a powerful position.

But lack of experience in the municipality created problems in the over-use of this power. Everyone was trying to obtain guarantees that the property would be built as they wanted. The CA demanded that the land only be sold after approval of a *theoretical application*²⁵⁹. The construction company wanted guarantees that the design could be built. The property department sought assurance that they were obtaining the best possible price, and councillors wanted to control the aesthetics. At the same time it seemed that everyone wanted to avoid responsibility for any demand or decision (see below).

The project meant re-planning the entire area and, in spring 1991, the general plan was revised and a new detail plan proposed, the work for this being sub-contracted to a private bureau. Per the 'rules', public hearings were held for both types of plan but, as appears common, only developers and press attended. Thus another discrepancy went unremarked; viz.: to conform to the national building code 1200 parking spaces were needed within 500m of the central area development. Only 900 could be accommodated.

Now the bank had long standing arrangements with a major firm of contractors. If sites were found, contracts would follow. Desperate for work, and unbeknown to the bank, in early March 1992 these contractors submitted a theoretical application for the site. Neither the adjunct mayor or the CA knew that this had not been authorised by the bank. Inconsistent with the ideas discussed, it was refused. The bank was furious, its negotiations upset. Whether or not related, in April 1992, a new CA was appointed.

The bank now organised a closed competition²⁶⁰, inviting 2 firms of architects and the construction firm to submit proposals. It agreed to pay each firm 50,000 ULC²⁶¹ whether or not its design was accepted. Entries were passed to the CA for assessment. Although supposedly anonymous, the bank was aware that his eventual choice came from a firm with which he was apparently associated²⁶². However, in the opinion of the bank director, at first sight it was clear that the other firm of architects had the right solution. Both of the others were simply 'not bank like', i.e. they did not convey a 'bank image'. Had they been of a better standard, he claimed, they would have been asked to co-operate in the final project design. But, as he admitted, he also had no intention of letting the construction firm win. In fact, it seemed that his choice as to the winning architect was a school-friend of his. In the CA's view the winning design was the worst. The design he preferred came from a firm selected by the chief of the bank's local branch and with whom the CA was connected.

Almost to be expected, there was conflict between the CA and the project architect in elaborating the scheme. The CA stayed close to the detailed plan, strictly applying building lines without defining functions. The adjunct mayor did his best to reconcile the two and co-ordinate progress. In August 1992 a new theoretical application was made, but the positions of different departments was 'unclear', responsibility was avoided, and it became problematical to obtain a decision. The bank asked for assistance from the mayor and his adjunct. They put pressure on the CA to give his approval. On 22nd November he issued the theoretical permission with numerous conditions. Then, as if to distance himself from further repercussions, he 'disappeared on holiday'.

The way was now clear for the bank to conclude the purchase and, kept within the mayor's decision remit, in December 1992 the contract was signed. Zlonkoš had got a good deal. The bank was required to construct utilities and sewers to facilitate the entire adjacent new development. This enabled Zlonkoš to offer serviced sites and use the new bank to attract developers and occupiers. The bank considered it to be the highest land price in the country outside the capital. As owners the bank now made formal application and, in December 1992, the official permit was issued.

²⁵⁹ a form of outline planning application.

²⁶⁰ i.e. only specific firms were invited to compete.

²⁶¹ Units of Local Currency

²⁶² Although the law was under discussion for revision, it remained illegal for a Chief Architect to build in his own municipality. He was considered to be there for 'city scaping' and corruption had to be avoided.

But the boot had shifted to the bank's foot. Following the appointment of a new CA in January 1993, a new application was made. This changed the design and eliminated the underground parking. Several reasons for the changes were given: ground water, costs (25%-30% of total!), security, customer parking ratios. The council was upset. Made up of 'gardeners and local shop-keepers', they liked the fashionable, big city idea of an underground car park.

More negotiations ensued. Zlonkoš did not have funds to install the infrastructure themselves and needed the project to do this. With each underground space set to cost 1m. ULC, the total would be 20m, the adjunct mayor was persuaded that the bank would leave their land vacant unless the new permit was granted. The regulations were 'interpreted', agreement reached to commute the spaces at a much lower capital cost²⁶³, and the bank paid this up front into a fund from which the municipality was to provide them elsewhere²⁶⁴. Meanwhile, the commuted funds were to be managed by Zlonkoš' property management department.

In April 1993 the new permit was issued. Granted under the newly approved general and detailed plans, no further public consultation was necessary. Consequently it was only after construction started in June 1993 that the local community became fully aware of the impacts and began to protest about loss of trees, green space, parking, etc.

Figure 55 Synopsis of case CE-01, The Prestige Bank Job

11.1.4 Issues and processes

Regardless of regime or the game being played, the new highway constructed through Zlonkoš' heart in 1970 sealed the centre's eventual fate. In the absence of any equivalent or balancing infrastructure changes, or of rapid shift to western levels of traffic congestion and motorised shopping, this was set for commercial use. That it required the move to a free market economy to advance this process merely emphasises the market's role in driving development. Whether or not influenced by western models, local politicians, both leaders and ordinary councillors, saw city image as important in attracting investment to improve their economy. It seems that the park and local objections played second fiddle to these concerns. In this respect policy was opportunistic, made *ad hoc* in response to market demand. City finances limited Zlonkoš' bargaining options, allowing the bank's money muscle to secure extra advantage for them. They had always intended to try and eliminate the costly underground parking. But, admitting his bluff not to build and so sterilise the whole area (the bank would have proceeded anyway), the bank director emphasised the importance of land ownership. In his words

"... if you have the land you are in a leading position in the negotiations; you can over-ride the regulations. I do not care about local decisions as long as the technical details are perfect. If the municipality does not issue a permit you can appeal, or just build and pay a fine, 30% to 40% of the building costs, which is not the best way of course."

Bank Director

Even if Zlonkoš had had appropriate powers and the funds to pursue these, having sold the land they might have found difficulty in subsequently expropriating this back. The case firmly links land ownership, city property management, planning and development control. It also demonstrates a low regard for regulations and highlights the importance of superior skills and experience in negotiation.

²⁶³ Unfortunately the exact figure is not known.

²⁶⁴ As in the UK and other countries, this was apparently common practice in this country. It relieved developers of the responsibility and, since (usually) the payment did not have to be made until they were built,

But beneath these primary machinations can be glimpsed issues of human frailty, the need for work and fear for one's job and reputation, the need to obtain better posts and professional protectionism, and the manipulation of knowledge and position to grant favours and gain personal reward. The potentially loaded 'competition', various attempts by CA's to impose rather patchy 'rules', and the apparently constant revision or 'interpretation' of these, collectively represented more of an obstacle course than a framework. In consequence the processes at work in this case are seen as following a mixture of plan led and negotiation decision types, i.e. idealised types 1 and 3.

11.1.5 Practices - locating the decision and process

Deception and negotiation seem to characterise this case. Deception by the city representing its deliberately un-approved plan as the formal document, by the bank over its intentions for the underground parking and the apparently rigged competition, by the contractors in submitting an unauthorised application, and by the CA in favouring undisclosed associates in his choice of schemes. Negotiation was served by a combination of pragmatic politics, public sector flexibility, developer tactics, and hard bargaining. Whether these were necessarily associated will be considered in Chapter 15.

Apparently influenced more by financial imperatives than party politics, city-wide policies, rather than local neighbourhood concerns, focused political attention. Little agreement appeared to exist between architects, including the CA, who were - or tended to regard themselves as - supposedly the guardians of both built environment, and rules. This presented the 'rules' more as impedimenta than as instruments for the protection of public and heritage. The bank could have gone elsewhere, but accessibility and prominence favoured this site. Its development was pre-determined by infrastructure and released by market forces to those with the might to recognise and martial these. Without them the land was destined to remain a park with its surroundings dormant until such time as the municipality could raise funds for infrastructure. While none of the practices is particularly transparent, 'rules' and councillors/procedures are seen to exercise some form of '*check & balance*' (see matrix, p.228) influence, even if this was subverted, scoring transparency at 3. Additionally, whilst individual private interest are present, the political decision makers do appear to have had the general public, if not the neighbourhood community, interest in mind. Albeit against some opposition, they do seem to have been trying to secure early improvements for the location. Having regard for the radically changed political structure, this gives equity a rating of 4. Profit is a concern for both sides, but commercial power would seem to have won out. Accordingly the case is considered to be located approximately in the lower centre of quadrant 'C' of the decision matrix.

11.2 Dobrástú

Dobrástú is also a major, ancient city, but unlike Zlonkoš, its ageing general plan was only just being revised. Consequently situations arose in which it was hard to keep to the codes as plans and policies

provided them with a rent or interest profit. In fact it appeared quite common for municipalities never to build such parking places.

often conflicted, e.g. more housing within an area in which density was restricted (CE-02/1). As in Zlonkoš, many of its ex-state properties were proving to be more burden than wealth. Management of these also followed similar lines, with sales being arranged by tender, competitions, etc.. In the late 1980's the State decided that it should develop its tourist potential, encouraged by a large foreign aid grant. As State Socialism eased its grip, Dobrastú took advantage of this

11.2.1 *The Prestige Hotel 'Competition'* (Case CE-02)

This case is of particular interest in that it spans the pre and post Velvet Revolution regimes. Responding to growing interest in the potential for commercial development opportunities from western companies, in 1988 Dobrastú issued several study reports. The one for tourism suggested various sites for hotel locations, described each site, related municipal requirements, and provided location maps and sketches of possible buildings. This was given to enquirers. One such site was a parking lot opposite the police headquarters. Without any powers to do so, for years the police had used Party relationships to veto its development²⁶⁵. The LPA had no idea what to do with it and no detail plan existed. However, placing a high price tag on it, the report now suggested a 5 star hotel.

DETAILS - case CE-02

| | | | |
|----------------------|---|-----------------------|--|
| Site area: | <i>0.8 Ha.</i> | Site Type: | <i>Urban</i> |
| Dev. Type: | <i>Mixed Leisure: Hotel, shop</i> | Location: | <i>Central</i> |
| Planned use: | <i>Parking</i> | Policy use: | <i>Open space</i> |
| Actual use: | <i>Vacant / parking lot</i> | Outcome: | <i>Change of use; buildings completed & in use</i> |
| Project idea: | <i>1988</i> | Application: | <i>June 1989</i> |
| Decision/s: | <i>September 1992</i> | Decision type: | <i>Negotiated</i> |
| Actors: | <i>Director of tourism, architect, 3rd parties, contractor.</i> | Agencies: | <i>Tourist office, International bank, Hotel chain, International architect firm, police, media,</i> |

Time diagram - case CE-02

| 1987 | 1988 | 89 | 90 | 91 | 91 | 93 | 94 |
|---|--|--------------------|---|--|--------------------------------|---|---|
| / | / | / | / | / | / | / | / |
| Law allows in foreign development capital | Grant aid promotes Tourism Report issued | Tender competition | Architects unite. Win competition Detailed plan made. Contract. | Theoretical application & permit Formal application & permit | Building application starts VR | Revised application approved Arch. opens extra office | Hotel complete in July. Use permit argument Use permit withdrawn Official opening September |

Synopsis - case CE-02

In September 1988, after 3 investors had shown interest in the site, the city ran a combined tender & competition. A detailed plan was prepared specifically for the development, this being mainly determined by surrounding buildings. Rules of the competition specified what could be built over 100% of site area and required replacement parking for the existing lot as well as for the hotel. Emphasis was on feasibility rather than architecture, but this was important to demonstrate how quality related to finance.

Of the 5 applications received from all over the world, one was from a joint venture (JV) between the National Tourist Office (NTO) and a small, foreign, franchised hotel chain. Their backers, introduced by a

²⁶⁵ All main department heads were Party members. The Party rule was that on at least every second level of every hierarchy there had to be at least one Party member working in order to channel Party information down into every organisation.

Swiss specialist hotel architect, included a merchant bank and an airline. Like other investors, they had been keen to take advantage of the post VR opportunities.

In January 1989 the NTO met with the Swiss architect, the investment group, and a local architect representing one of the other competing groups backed by a local bank. The NTO told them that another entry was front runner and encouraged them to rethink their submission around the idea of leasing rather than buying the land. This they did, a deal was arranged, and the two architects joined forces on behalf of the JV.

Not having built a hotel before, the hoteliers had no particular design standards, but stressed the April 1992 opening target as imperative. The tender was revised, 'won the competition', and a contract between the JV and Dobrastú, who gained 15% of the local hotel shares, signed. *Inter alia* this provided for materials to conform to the higher of the local or contractor's national standards. Meanwhile, in March, the police formally withdrew their 'veto', subject to certain improvements to their own premises being carried out.

Aided by 'contacts' of local members of the JV, in May a theoretical application was made. Amendments negotiated included a one floor reduction, pedestrianising one street, making another one-way, and part re-constructing a third. With related 'planning gain' benefits being extracted from the JV, this probably turned out to the net benefit of city and locality. But, before permits were issued, local objections began to arrive and press, radio and TV interest was aroused. In response the building line was pushed back and the building effectively 'stepped' on the upper storeys. Formal application was lodged in June and approved in September, a conditional land use permit being issued at the same time.

The project architect was now awarded a further contract for detailed design and supervision. He invited separate open tenders for interior design and for construction, awarding the latter to a firm in which the investors had shares. Under pressure from the contractor, who often ran ahead of schedule, and demands for design changes from the foreign elements of the JV, the architect could not keep up. Additionally, he faced a legal problem. After the VR it became illegal for an architect to supervise the firm employing him/her for a project. To both cope with the work and overcome this problem, another office was opened. Eventually, the modified application, made in July 1991, was approved.

In June 1992, 3 months behind target, the building was completed and a use permit issued. But on 14th July this was withdrawn on the grounds that the fire certificate was not acceptable! The problem concerned elevator doors not conforming to national standards. Although in use world-wide, they were caught by the building code requiring all foreign materials to pass local quality standard inspections. A temporary use permit was issued to allow the official opening on 10th September. This led to utility companies, public health, etc. authorities re-inspecting for their certificates. In early 1995, this situation was on-going.

Figure 56 *Synopsis of case CE-02, The Prestige Hotel 'Competition'*

11.2.2 *Issues and processes*

Superficially this case appears fairly innocuous albeit that, as in Zlonkoš and Klienstadt, Germany, the development 'competition' seems to have been a sham, used deceptively if not actually dishonestly, a point returned to in Chapter 15. The overriding issues appear to be free markets and finance, linked to tourism, returns on investment and the expertise needed to address these. It is perhaps also not unreasonable to think that out of date plans should be revised, building regulations enforced, and national quality standards respected. But examined a little more closely it is the power and influence of networks which seem to emerge as the important practical issues in this case. First, there is the ability of the police to use their might to informally, but effectively, veto development. Second, there are the informal links that made this possible. Their value is seen at work a third time in bringing together JV consortia, in, apparently, arranging who should win the 'competitions', and in oiling the wheels to secure rapid approvals. Third, the network might of the media comes into play. As the VR approached they flexed their muscles and caused plans to be varied, although what this did to viability projections, as well as plans, is not known. The objectives of 'rules' is another issue. Municipal land holders show greater concern for financial viability than architecture and planning and their use of

regulatory power to secure effective English style *planning gain* (1.5) benefits is a situation which may have hidden agenda parallels in the issuance and withdrawal of the use permit. Meanwhile, the architects actions in opening up new offices, show regulation as an inconvenience, a tool to be side-stepped if possible. Since the detailed plan was made to suit the project the process cannot be said to have followed the plan. But, via a somewhat devious route of negotiation, it did follow policy. The processes at work may thus be seen as following a mixture of idealised decision types 2 and 3.

11.2.3 *Practices - locating the decision and process*

Once again negotiation was the principle practice, driven by national and city economic concerns.

Only when the media intervened was the local and wider public voice given any attention. Since, reversing the 'rules', the plan followed the project, no planning rules can be said to be enforced. An apparent total flexibility could be spied within a supposedly highly regulated context, especially that existing before the VR. Where rules were imposed this appeared to be for technical or financial reasons. Nevertheless policy, considered as an element of 'rules', was pursued, but, as in some of the EU cases, with any requisite formal procedures being subverted to the power and influence of networks. The case cannot, therefore, be said to exhibit a total absence of rules but, unlike the situation in Zlonkoš, formal checks and balances seemed non existent, these being supplied by the media. Seeing policy as being to create and offer commercial opportunity, negotiation of this seems to have been the practice.

Elected politicians, in particular, were overtly absent in every area of the case. Whether this is because they could see no role - or benefit - for themselves in this, or because the *ancien régime* still held the reins, or because the applicable power and influence networks simply excluded them, is a matter for conjecture. No evidence was found either way. Abnormally, as the ultimate decision takers, they seemed to have played a very low key role²⁶⁶, in practices which held little regard for *due process* or transparency. However, due to media interest, transparency scores 4. Likewise no individual benefits could be identified for the actors, although there was hint of the possibility of share-holdings.

The initial 'competition' illustrates a willingness to manipulate even non statutory rules, i.e. those of the competition, to suit the profit interests of the municipality. Clearly of great importance, they resulted in the commercial power of international investment seeming to be pulled a bit by its nose.

Such profits may, therefore, be considered as directed to the city's general public interest. Thus, even

²⁶⁶ According to the Chief Architect and Planning Officer, investors and developers usually negotiated their proposals with the city leadership. Before the VR these leaders relied on the departments for advice and then passed responsibility for managing projects to the administrators. By the time of this research things had changed. City leaders did not trust the administration and, instead, employed advisory committees and personal assistants. This caused tensions within the municipality, especially since these advisors got substantially higher pay than the administrative staff, for similar services. To an extent this distrust supports the hypothesis of a gulf between network and political power, helping to explain why, in this case, politicians seem to have acted more as a 'rubber stamp'.

though objectors received short shrift, since this was a town centre site, equity scores 5. Against this background the case locates well in the centre right of quadrant 'C' on the decision matrix.

11.3 Prnā

Prnā is a major, manufacturing city. But its industries are old and, in the wake of the VR, the 'peace dividend' threatened structural change and major closures. The newly elected authority's attention was focused on city centre improvement to boost foreign visitors and trade and to attract foreign business investment.

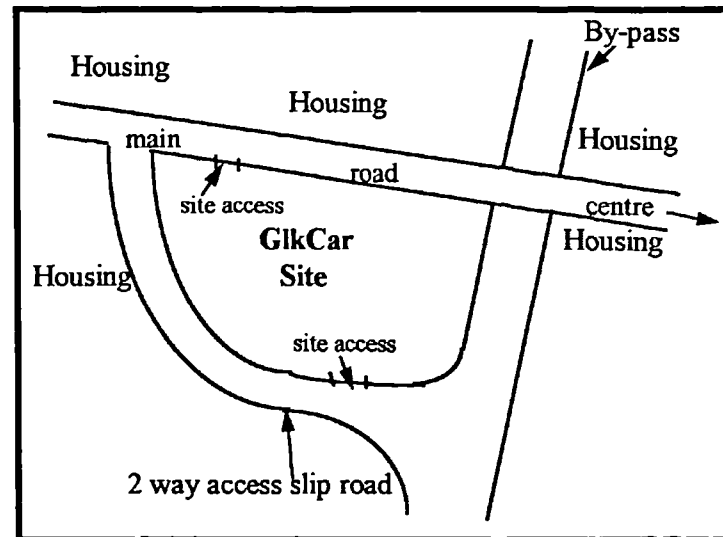


Figure 57 GlkCar's island site

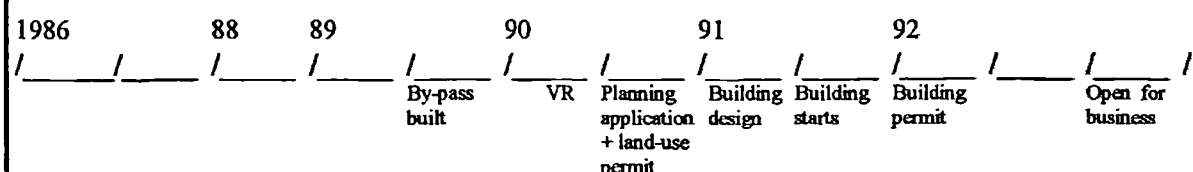
11.3.1 Happy motoring! (Case CE-03)

Near the northern perimeter of Prnā a former dormitory town had become part of the metropolis. Here, an isolated, redundant or spare piece of land, created as an 'island' site by the construction of the new by-pass access and highway interchange (Figure 57, p.221) was targeted by an entrepreneurial, end-user company and their architect. The new municipal owners could see no use for this and were happy to negotiate its disposal.

DETAILS - case CE-03

| | | | |
|----------------------|---|-----------------------|--|
| Site area: | 0.7 Ha. | Site Type: | Urban |
| Dev. Type: | Mixed: cmmcl - industrial | Location: | Northern perimeter main road/by-pass junct'n |
| Planned use: | Non. Part of road scheme | Policy use: | None |
| Actual use: | Vacant & derelict | Outcome: | Complete change brings site into development |
| Project idea: | 1989 | Application: | 5 November 1990 |
| Decision/s: | 23/11/90 + 07/01/92 | Decision type: | Negotiated |
| Actors: | End-use developer, Architect, CA/CPO | Agencies: | Municipal land department, LPA, Statutory consultants |

Time diagram - case CE-03



Synopsis - case CE-03

GlkCar sold, rented and repaired cars. It was located to the north of the city in the dormitory town. Already well established it wanted to take full advantage of the post VR changes and expand its capacity. To do so it needed new premises, recognising that these needed to be in a prominent location, easily accessible for their customers, and to present the right, forward looking image. They focused on the site as satisfying all these requirements.

GlkCar and their architect worked out fully detailed plans before approaching the municipality, taking the initiative as to design and re-planning of the area themselves. The design was simple, but striking, making maximum use of newly available (mainly western) materials. It conveyed a progressive, modern image. Typical of the profession in his country (and elsewhere) the architect believed that he has an 'important role to play' and statements to make, in the planning and development process. During the honeymoon period he wanted to discover just what was possible under the new regime.

The municipality proved very flexible and, subject to city master plan constraints, prepared to consider anything. Fortunately this site was not affected by the city plan, not previously having been considered for development. Little regard seemed to have been paid to the general residential nature of the neighbourhood, or potential traffic hazards in the 2 site access ways proposed so close to the junction, one off the slip road, the other on the main road. The law regarding publicity helped avoid objections. Since only neighbours had to be advised, and the only neighbour was the LA's roads, the local inhabitants knew nothing of this²⁶⁷. Plans were exhibited for the statutory month, but no comments were made.

"Getting the permit was easy" (CE-03/1). It was the first new building in the poor outskirts of the city. The LPA needed to improve the visual quality of the neighbourhood. They were also keen to increase their business tax base and provide employment opportunities for local inhabitants. Obtaining the 22 additional, requisite permits from independent consulting bodies caused no great problem and was less time consuming than for complicated cases, where up to 70 permits could be required. Whilst the procedural character of the main planning law notionally left little scope for corruption and manipulation, both were possible in relation to the plethora of these 'sub' permits which had to be obtained by the applicant.

Without apparently involving politicians, the architect dealt exclusively with the City Architect & Planning Officer who took the decision to give permission under the authority delegated to him by the full council. However, this was not until he had obtained the 'green light' from the central authorities.

Construction began in mid 1991, six months before the permit was granted. The new showroom and workshops opened in late 1993.

Figure 58 *Synopsis of case CE-03, Happy Motoring!*

11.3.2 *Issues and processes*

Once again changes in infrastructure were instrumental in bringing land forward for development.

Important to the local community, the project did not seem important enough to demand the attention of politicians. It thus presents a useful contrast with most of the other research cases. This is evident first in the apparent lack of attention to highway and road safety matters. The two way single slip road to serve a major interchange in itself raises questions about the technical standards that were incorporated into the country's physical planning. Permitting access directly onto this only emphasises the question. From what was gleaned of the transactions between the architect and CA/CPO, no consideration seems to have been given to what impact the scheme might have had on local residents. Joint interest, perhaps understandable between two architects, was focused more on the innovative use of materials and design.

It was maybe a happy accident that the project served city policy concerns of jobs, taxes, and image.

²⁶⁷ According to different informants, to minimise or even eliminate the number of people notified, developers of major projects sometimes go to the extent of sub-dividing a perimeter strip all around a development site, and selling this to (a) nominee/s. The nominee/s then become the neighbours and the only people to be notified.

Likewise, since the site had not been considered in development terms, there was no conflict with the city plan and a virtual absence of reasons why the permit should not be granted. However, had the application been submitted under the previous regime the indications are that the reverse may have been true. The introduction of a market economy seems to have been attended by a desire to create flexibility, remove restriction, and encourage entrepreneurship, experimentation and innovation. (The question of whether or not a market economy and *laissez-faire* planning are concomitant is addressed in Chapter 13).

To start building operations before a building permit is granted is not uncommon elsewhere, the contractor proceeding at own risk after he has reasonable assurance that all is in order. But to do so six months before suggests either major faults in the system, or privileged relationships between the architect and authorities, or both. The system of sub permits in fact suggests that both are the case. For any individual to obtain up to 70 such documents within any reasonable space of time implies either excellent relationships or the possibility of these receiving only cursory attention. Together they intimate lack of regard for formal rules, an observation supported by the way in which publicity appears to have been handled here. This is perhaps not surprising given that, post VR, all rules were destabilised.

Despite the initial resemblance of public or community concern, once again it seems the issues related more to the financial ability to build a project (in this case almost any project) which would at least mollify if not satisfy economic and image objectives, regardless of community interest. To this end relationships - personal networks even - were also an issue. It may be that they outstripped professional competence in addressing planning systems. Neither plans nor regulations seem to have framed this process. Nor do policies, whilst satisfied, seem to have played much part. Negotiation, albeit concerning professional interests rather than commercial matters, appear to have governed the process.

11.3.3 *Practices - locating the decision and process*

Loosely linked to 'rules', but deep in negotiation, having coincidentally avoided 'neighbour notices', this case seems not to have attracted much interest or transparency, which rates 1. Although the primary practice is seen as one of negotiation, despite the lack of plan and planning regulatory rules (as distinct from building codes), whether intentionally applied or not, policies were addressed. If officers are given the attribute of wanting to provide local jobs and improve a potential eyesore, then equity scores 4. In so far as they formed part of the 'rules' and operated in the interests of the community rather than the general public interest, this suggests the decision is located to the right of centre in quadrant 'B'. However, the process of decision delegation and political leaderships pre-occupation with city economic promotion, would seem to more accurately locate this higher up the 'interests' axis, possibly spanning quadrants 'B' and 'C', as indicated on the matrix.

11.4 Kspár

Located on a main east-west route, Kspár is a medium sized town but the largest within 50 Km. radius. Largely re-built in the 16th century, it served as the regional centre for around 25,000 people. Small industries and the economy generally have developed around textiles, timber, foodstuffs, light metalworking, a military college, and a branch of the national farming college. At the time of the research it pinned its future hopes on attracting tourism. Badly affected by heavy commercial and military traffic passing through its centre, in the mid 1980's a by-pass was proposed. This could have passed either north or south of the town but, after much argument, it seems the then top ranking local Party member, whose own home could have been affected, got his way and the southerly route was chosen. Work began shortly before the VR. Although a totally new highway, passing some 5 Km. north of the town, was proposed, due to lack of funds a delay of at least 20 years was forecast before this is built

11.4.1 'Southgate' (Case CE-04)

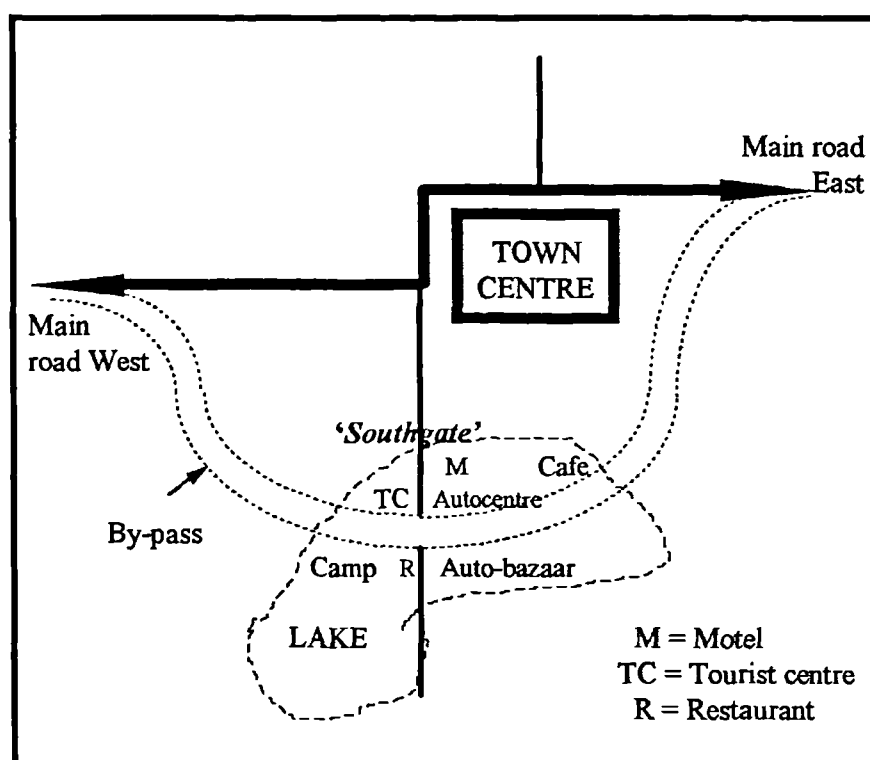


Figure 59 Kspár's 'Southgate' project

To the south of the town a small river runs into a modest lake. It is the lowest point of the area and features water meadows and flood plains before hills rise sharply, hard by the town boundary. Swathing down into this from both directions, the new by-pass provides travellers with an elevated view of the old centre, its towers and domes. But poor junctions with the main road at either end discourages their increasing numbers from entering the town as tourists. Made uneconomic for agriculture by this new road, two friends, a civil engineer and an architect, both with western contacts, had long considered this site of potential importance. It provided the opportunity for a new, commanding,

'town gate'.

In the post VR elections, the unaligned civil engineer took 85% of the votes²⁶⁸ and was elected mayor. Finding the town penurious, he made one of his first tasks to persuade the land's owners, the State co-operative farm college, to make a gift of this to the town. 'Southgate' was conceived.

DETAILS- case CE-04

| | | | |
|----------------------|--|-----------------------|--|
| Site area: | 4 Ha. | Site Type: | Greenfield |
| Dev. Type: | Mixed: Comcl + Leisure | Location: | Southern perimeter |
| Planned use: | Agriculture | Policy use: | Agriculture |
| Actual use: | Agriculture | Outcome: | Change to mixed commercial and leisure |
| Project idea: | 1990 | Application: | 1991 |
| Decision/s: | 1991 - 1993 | Decision type: | Negotiated (autocratic decision) |
| Actors: | Mayor, CA, Architect, Developer, End use investors | Agencies: | Council, consultants, |

Time diagram - case CE-04

| 1985 | | 90 | 91 | 92 | 93 | 94 |
|------------------|--------------|-------------|----------------------------|---------------------------|------------------------------------|-----------------------------|
| / | / | / | / | / | / | / |
| By-pass proposal | Route agreed | Work starts | VR Council & Mayor elected | Council OK idea | Service station takes part of site | 17/11 By-pass opens |
| | | | | Start search for investor | Investor search intensified | Project architect contacted |
| | | | | | | Investors discuss design |
| | | | | | | Service area opens |
| | | | | | | Sub Permits collected |
| | | | | | | Building start target |

Synopsis - case CE-04

Soon after the elections the new mayor and his friend produced a sketch development proposal, presenting this to a council who, for the main part, were ignorant of such matters. For them immediate and pressing social issues were more important. The town had no money, could do nothing. What harm could it do to humour their enthusiastic new mayor?. The idea was approved and the sketch, incorporating service station, cafe, motel, restaurant, tourist exhibition, and auto-bazaar, adopted as the area plan.

The two friends now began to search for investors and appropriate architects to develop the site. Little by little interest was aroused, but nothing much happened until the by-pass opened in late November 1992. The search was stepped up. More, business orientated friends joined the 'team', including the director of the Building & Housing department (B&H). Negotiations were opened, conditions proposed and then tightened to make investors self selecting. The first, obvious taker, was an international petrol station group. Combined with other negotiations their project soon made it clear that an overall design was needed. But the town had only 5, overworked²⁶⁹ staff and no expertise to produce this. Neither had they the money to commission it from outside.

In April 1993 a deal was struck with an architect and planning academic to design the scheme in detail. It became live, practical project work for his students. By August the University department found itself presenting two comprehensive proposals, complete with models, to a town conference. Treated as an informal competition, in which there were no prizes, the aim was to select the best, hypothetical scheme - after all the town has no money to develop whichever was chosen. Only the mayor and his close, team confidants know the possibility of its realisation.

²⁶⁸ Virtually unopposed, the mayor was proud of his majority and had not been afraid to use it. Fiercely critical of council members and staff who did not toe his line - or performance standards - within 3 years 5 of the 7 heads of departments had resigned. Married, flamboyant, ebullient, and openly a womaniser, he was a striking character under whose dominance, dynamism, business flair and guidance the town's rejuvenation proceeded at about twice the pace of anywhere else in the country.

²⁶⁹ Workdays started at 06.00 or 07.00 and often went on into the night - 18.00 or 19.00 was not uncommon, whilst 'normal' jobs finished at 15.00 or 16.00. Since the VR they had toiled on town centre renovations, devising and implementing sewerage, electricity, telephone and gas networks for both town and surrounding villages, planning water treatment plants, a transformer station and an area masterplan, the sale of former State buildings, and, finally, the 'Southgate' project.

Without spending a penny the land had been acquired, a plan agreed, detailed proposals exhibited and promoted to some thirty people, including potential investors, developers, architects and other experts. The council made its choice, a wider audience was reached via the media, and final negotiations entered into with the most serious investors.

These negotiations encompassed everything: access, building quality, utilities, customer volumes, service standards, etc. But, mindful of Kspár's finances, next to the price for the land the extent of planning gain that could be obtained was most important. Especially - and reminiscent of the Zlonkos case - where this could help service and promote the total project. *"Every little helps."* appeared to be the motto. The mayor grasped the nettle, spelled out the bottom line, and the bargain was struck. Heads of Agreement and side contracts were written out long hand, all signed in covert huddles in the annex to the small, medieval council chamber. Formal application were to be submitted with full speed. Interestingly the investor, who came from the capital, was local born; a friend of the B&H director.

Now, as seems common in these countries, as in many others, the professor ran his own private practice. The investor commissioned him to complete the designs. In turn he employed his students to do so. The B&H director²⁷⁰ also had a contract. It gave him around 2 average years income (as much per hour as the average weekly wage) for organising and obtaining all the connected permits²⁷¹. Several of the 'stamps' required, e.g. hygiene and traffic, officially required more detailed consideration than time permitted. That was one reason why his reward was so high²⁷². Indeed, both his position and contacts would enable construction targets to be met. Except for the service station, the schemes neighbours were all state or municipal organisations (see 11.3.1).

Sub permit 'favours' were negotiated, even from the water authority. This enabled raw sewage effluent to be discharged into the river on the assumption that this would only be for a couple of years until (hopefully) the new sewage scheme for the town was installed²⁷³. If any problems arose, then planning and building permits could still be issued under his own authority as head of B&H. Another of the inner 'team', already running the temporary café in the service area, would get the restaurant tenancy. But the mayor was in remorse.²⁷⁴ He doubted the ultimate ability of the investor to complete. Wisely he ensured that the land sale was tied to completion of the buildings and, quietly, kept communications open with other interested parties.

It seems he may have been right. All of the investor's assets were tied as security for other projects and, since the town would not release the land yet, the mayor proposed a solution. He and his team would find a contractor who could provide a guarantee of completion of building works and, in consideration of a higher price, wait for payment until they had done so. The land could then be released and the whole project refinanced against its own security. For both idea and service he expected to receive a handsome 'present' - possibly 'under the table' to avoid accusation of handling private business in publicly paid time.

Figure 60 Synopsis of case CE-04, 'Southgate'

11.4.2 Issues and processes

Formal records will only ever record formal detail. Nowhere, within Kspár or, indeed, the country, are issues and processes, such as outlined above, likely to appear. Yet they raise several important issues centring around mayoral power. Whether this derives from his personality, professional knowledge, business acumen, or any combination of these, as in France, the town seems his fiefdom. With the town penurious and inexperienced councillors otherwise distracted, he turned 'rules' to resources, waste land to prime site, and contacts to business deals. Whether this could have been achieved transparently, without 'managing' the rules and finding ways to make the system work for the project, may be questioned. Likewise whether the town should have been run as an entrepreneur-

²⁷⁰ As with Szolnoš. salaries were low and, after a little more than a year, he moved on to a private practice job at twice the salary with no restriction on his taking other, private commissions.

²⁷¹ The law required that each permit was seen and approved by around 20 State institutes. Because of his connections he expected to obtain all the required 'stamps' in about 3 weeks. Normally this took between 3 & 6 months or longer.

²⁷² He would either trade 'favours' or, in turn, would recompense many 'friends' for their assistance.

²⁷³ The contract for which the mayor confidently expected to execute through his own company.

²⁷⁴ A common condition for either side after hard detailed bargaining.

rial enterprise, with a blurred line between strict morality and impropriety, private deals and work for developers, seems dubious. But, like it or not, this 'boot-straps' approach was working, the town improving. At what cost in terms of 'democratic' progress, the 'rule of law', morality and equity, is another issue.

Change, both infrastructural, economic, and the state of national transition, together with the relative importance of finance - for as this case demonstrates, much can be achieved in its absence - are further issues. All are returned to in Chapter 13. Here they may all be seen as features of 'management by negotiation'. Together with the environment, planning principles, design and architectural compatibility they are sub-themes. 'Rules' in so far as they concern planning, seem of little relevance. Before 'Southgate' they zoned the land agricultural. Policy followed the mayor's project objectives. Procedures were negotiated away or around. Even negotiation - present in bringing together the 'team', bringing forward investors, obtaining council approval, determining design, etc. - is itself suspect under the apparent driving dominance of the key actor, the mayor, relegating power, prestige and élitism to being sub issues.

Other, linked issues are the degree to which personal services should be rendered without reward, and the power of business interests. Whether private, municipal, corporate or academic, it is commercial 'business', in all its guises, which drove this project and seems most at issue. Yet through this can be glimpsed another, and more important, issue. The questions of whether it is agencies or individual actors who most direct affairs and determine outcomes; what their motives are, how they achieve their goals, and whether these are the same in all cases and all situations? Land betterment values, ownership, and professional knowledge and competence to address these appear as major concerns, although maybe other mechanisms could be found to achieve the control objectives.

Fitting this case into any of the idealised models is difficult. Negotiation seems most nearly to represent the permit decision making processes involved, but a hybrid model may be emerging here also.

11.4.3 *Practices - locating the decision and process*

To say that 'rules' were a constraining influence in this case may be over-stating their importance. Indeed, Machiavelli might have regarded their observation in the letter, rather than spirit, as an ideal way of obfuscating the true proceedings; especially when coupled with formal systems which themselves are somewhat less than transparent. This scores 1. Conformance, system access, discretion, judgement, checks and balances, and, as remarked, even negotiation - all items listed across the 'rules' access of the decision matrix - seem to have had little or no true relevance. They cannot be said to have framed the decision making process but, to a degree, they did constrain it. For these reasons they may be located neutrally, at the interstices of the two axes, or to the right of negotiation. Two possible positions are shown. Conversely the interests present were private, commercial, political and, through this, the wider general public interests of the city. Although arguably the smallness of

population could be said to make these more of a community nature, giving equity a score of 3, the immediate local community seemed not to figure. Neither does it seem that wider community views were taken into account. Using physical development to promote the city, promotes the mayor. It served his image as well as the town's whilst, at the same time, apparently offering potential for patronage, favours and pecuniary advantage. On this axis the case sits firmly at the bottom end.

11.5 The Central European development permit decision process

The English planning system deliberately leaves public interest considerations to be determined at the point of decision on individual planning applications. On the EU mainland these are supposedly determined, once and for all, when the town plan is adopted and given legal force. Under Eastern Europe's *ancien regime*, physical plans were subordinated to economic plans and central authorities supposedly addressed the general public interest through these at national level. It is not clear how time periods were intended to be adjusted to coincide but, given the failure of the system, this is of no concern here.

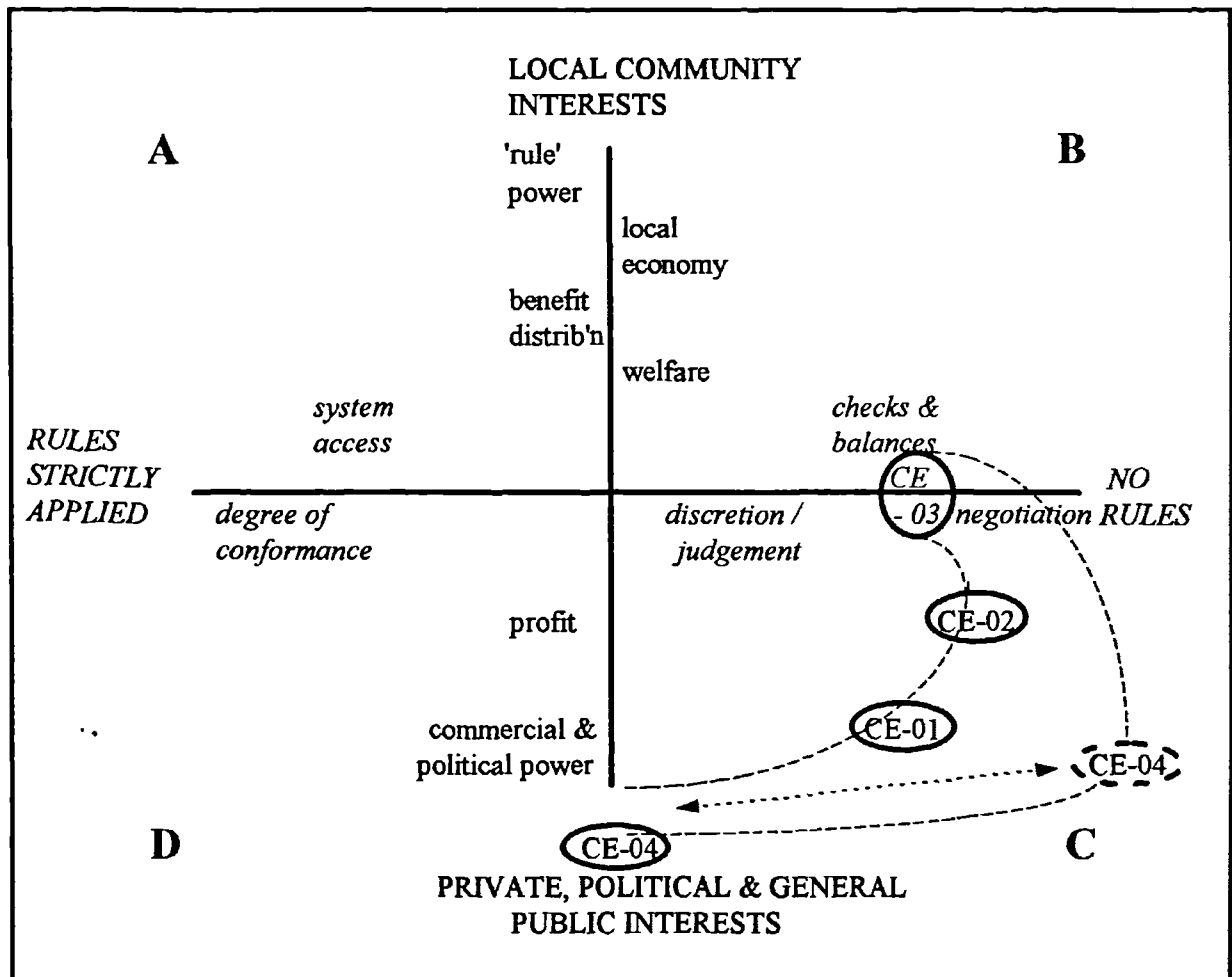


Figure 61: Locating Central European decisions and processes.

11.5.1 Central European rules -v- Central European Interests

The general public interest, as expressed in economic rather than social, welfare, or environmental terms, appears only addressed if they are coincident with such sectional interests. In particular it is the non mandatory checks and balances, evident as subconscious criteria in the English cases, which

seem missing. The overall impression is that decisions are located approximately around a boomerang described between the extremities of quadrant 'C'.

11.5.2 *Decision models and Central European practices*

What is of interest is that, on the evidence of these four cases, post VR release from these constraints and a seemingly over concern with free market practices, appear to have shifted CE systems bodily from wherever they were to a matrix location (Figure 61) somewhere to the right of England. This appears to result from unfettered, ruthless bargaining in the service of commercial, private and personal (as distinct from party) political, interests. Permit decisions are being heavily determined by negotiation.

| Central European permit decision process | | | |
|--|------|-----------|--------|
| Case | Plan | Negotiate | Policy |
| CE-01 | 1 | 2 | |
| CE-02 | | 2 | 1 |
| CE-03 | | 2.7 | 0.3 |
| CE-04 | | 3 | |
| Totals | 1 | 9.7 | 1.3 |

Table 21 *Decision models & Central European practices*

11.5.3 *Ranking factors in the decision making process*

Table 22, p.230, weights and ranks the factors identified in these decision processes as before. The last two columns show the clear importance both of city and personal image. This appears to link with negotiation; whether of interests, finding ways round rules, or economic affairs. Progressive change over a long period of time, change in infrastructure and out of date plans are also seen as major factors leading to the re-allocation of land for major development projects. Rule and policy conflicts are, perhaps, to be expected where both are being manipulated by strong individual and corporate drivers in negotiation (9=). Given the case facts presented throughout this Chapter, it is no surprise to find other agendas ranked alongside institutional drivers, planning gain, and policy issues. These can all be considered to relate to out of date town plans, which themselves may thus be failing to reflect social changes (14=).

Somewhat in conflict with the comments above (11.5 & 11.5.2), private interests do not appear as high up the list as might have been expected. Likewise, given the bottom place of environmental and planning issues, plan following, political issues and political pressures, it is a surprise to find that 'following local rules' ranks mid range (20=). That only modest importance attaches to policy based processes, possibly influenced by covert processes as well as market pressures (23=), and the low ranking of public (local community) interests (26), is no surprise, especially since negotiation, commercial and private interests are apparently placed much higher.

Considering the emergent, free market nature of these countries, perhaps the low ranking of lobbying, developer tactics, and media influence is understandable. That speculation, and corruption occupy the same level is more puzzling, especially in view of some of the case facts disclosed. Further consideration will be given to this in Chapter 14. But the absence of the use of rules to frame the decision-

| // East European Cases Factors // | CE-01 | CE-02 | CE-03 | CE-04 | Count of factor | Total weight | Av wt by count | Av wt all 4 cases | Rank by Count | Rank by Av Wt of 4 |
|--------------------------------------|-------|-------|-------|-------|--------------------|-----------------|-------------------|----------------------|------------------|-----------------------|
| Image promotion | 3 | 3 | 3 | 3 | 4 | 12 | 3.00 | 3.00 | 1 | 1 |
| Negot'n based process | 3 | 3 | 2 | 3 | 4 | 11 | 2.75 | 2.75 | 1 | 2 |
| Investment interests | 3 | 2 | 3 | 3 | 4 | 11 | 2.75 | 2.75 | 1 | 2 |
| Pre-negotiation | 3 | 3 | 2 | 2 | 4 | 10 | 2.50 | 2.50 | 1 | 4 |
| Rules over-riden | 3 | 2 | 2 | 2 | 4 | 9 | 2.25 | 2.25 | 1 | 5 |
| Long process of change | 3 | 2 | 1 | 3 | 4 | 9 | 2.25 | 2.25 | 1 | 5 |
| Infrastructure change | 3 | | 3 | 3 | 3 | 9 | 3.00 | 2.25 | 12 | 5 |
| Economic issues | 3 | 3 | 2 | 1 | 4 | 9 | 2.25 | 2.25 | 1 | 5 |
| Rule manipulation | 3 | 2 | | 3 | 3 | 8 | 2.67 | 2.00 | 12 | 9 |
| Individual driven | 2 | | 3 | 3 | 3 | 8 | 2.67 | 2.00 | 12 | 9 |
| Corporate driven | 2 | 2 | 3 | 1 | 4 | 8 | 2.00 | 2.00 | 1 | 9 |
| Rule & policy conflicts | 3 | 2 | 1 | 2 | 4 | 8 | 2.00 | 2.00 | 1 | 9 |
| 'Deal' arranged | 3 | 3 | | 2 | 3 | 8 | 2.67 | 2.00 | 12 | 9 |
| Town plan out of date | 1 | 3 | 1 | 1 | 4 | 6 | 1.50 | 1.50 | 1 | 14 |
| Other agendas | 2 | 1 | | 3 | 3 | 6 | 2.00 | 1.50 | 12 | 14 |
| Institutional driven | 3 | 3 | | | 2 | 6 | 3.00 | 1.50 | 21 | 14 |
| Societal change | | 3 | | 3 | 2 | 6 | 3.00 | 1.50 | 21 | 14 |
| Policy issues | | 3 | 2 | 1 | 3 | 6 | 2.00 | 1.50 | 12 | 14 |
| Planning gain | 2 | 2 | | 2 | 3 | 6 | 2.00 | 1.50 | 12 | 14 |
| Private interests | 2 | | | 3 | 2 | 5 | 2.50 | 1.25 | 21 | 20 |
| Post negotiation | 3 | 2 | | | 2 | 5 | 2.50 | 1.25 | 21 | 20 |
| Local rules followed | 2 | 1 | 1 | 1 | 4 | 5 | 1.25 | 1.25 | 1 | 20 |
| Covert process | | 1 | | 3 | 2 | 4 | 2.00 | 1.00 | 21 | 23 |
| Market pressures | 1 | 2 | 1 | | 3 | 4 | 1.33 | 1.00 | 12 | 23 |
| Policy based process | | 3 | 1 | | 2 | 4 | 2.00 | 1.00 | 21 | 23 |
| Cmnty interests/benefit | | 1 | 1 | 1 | 3 | 3 | 1.00 | 0.75 | 12 | 26 |
| Lobbying | 2 | | | | 1 | 2 | 2.00 | 0.50 | 28 | 27 |
| Developer tactics/rules | 2 | | | | 1 | 2 | 2.00 | 0.50 | 28 | 27 |
| Speculation | | | | 2 | 1 | 2 | 2.00 | 0.50 | 28 | 27 |
| Media influence | | 2 | | | 1 | 2 | 2.00 | 0.50 | 28 | 27 |
| Rules frame process | 1 | 1 | | | 2 | 2 | 1.00 | 0.50 | 21 | 27 |
| Corruption | | | | 2 | 1 | 2 | 2.00 | 0.50 | 28 | 27 |
| Regeneration pressures | 1 | | | | 1 | 1 | 1.00 | 0.25 | 28 | 33 |
| Appeal proc. important | 1 | | | | 1 | 1 | 1.00 | 0.25 | 28 | 33 |
| Political interests | | | | 1 | 1 | 1 | 1.00 | 0.25 | 28 | 33 |
| Jobs | | | 1 | | 1 | 1 | 1.00 | 0.25 | 28 | 33 |
| Transparent process | | 1 | | | 1 | 1 | 1.00 | 0.25 | 28 | 33 |
| Plan & rule based proc. | 1 | | | | 1 | 1 | | 0.25 | 28 | 33 |
| Political pressures /el'n | | | | | 0 | 0 | | 0.00 | 39 | 39 |
| Political issues | | | | | 0 | 0 | | 0.00 | 39 | 39 |
| Technological change | | | | | 0 | 0 | | 0.00 | 39 | 39 |
| Environmental issues | | | | | 0 | 0 | | 0.00 | 39 | 39 |
| Planning issues | | | | | 0 | 0 | | 0.00 | 39 | 39 |
| Plans followed | | | | | 0 | 0 | | 0.00 | 39 | 39 |

Table 22 Factors in the decision making process of 4 East European major commercial developments

making process merits little further comment (27=). Regeneration pressures would seem not to manifest themselves in the same way as in the more developed countries of the EU. This may be because so much of planing and development in these countries is starting from such relatively low level of amenity, quality, etc. Likewise the seemingly low importance attached to jobs. However, it is en-

couraging to find even minimal recognition of the importance of appeal procedures, and of the need for transparency (33).

11.5.4 Indicators of Transparency & Equity

Possibly because of the town centre locations, perhaps because of the efforts being made to capture the essence of liberal democracy, maybe even because of the researcher's contrary expectations, but seemingly out of step with the matrix patterns, these cases display a rather higher level of equity than in most other countries.

This is still not high and transparency is perhaps even lower than elsewhere, questioning the reasons for increased equity. This may suggest that efforts to achieve

fair treatment are being overtaken by those to secure freedoms through free market enterprise. With administrative and regulatory systems in turmoil, every situation demands individual consideration.

Ill equipped to handle this, everything is open not just to negotiation, but also to innovation, as new ways are tried, new systems are born. Maybe transparency is not so important if outcomes can be shown as equitable. But equally both may be under threat if the ethos which led to the VR is not strong enough to sustain them. Contrarily, if it does prove sufficiently robust then, within the apparently anarchic processes observed, may lie the true germ of Kropotkin's (1842-1921) 'co-operative consciousness' (1.3).

| Case | Transparency | Equity |
|-------|--------------|--------|
| CE-01 | 3 | 4 |
| CE-02 | 4 | 5 |
| CE-03 | 1 | 4 |
| CE-04 | 1 | 3 |
| Total | 9 | 16 |
| Ave | 2.25 | 4.00 |

Table 23 Transparency & Equity Indicators

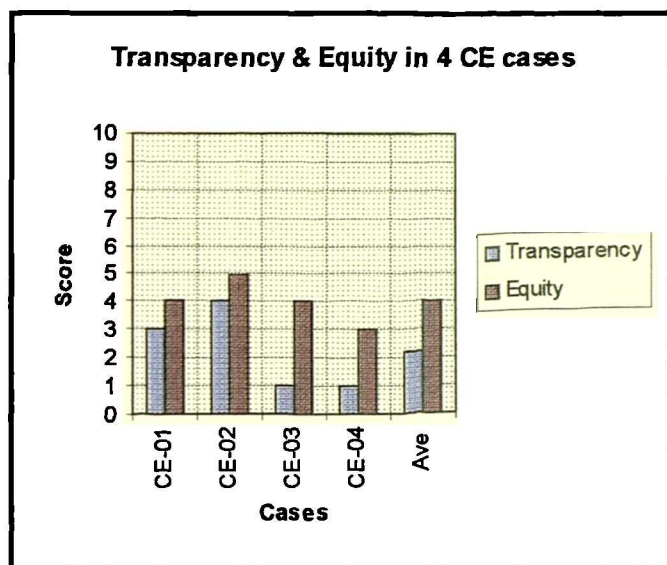


Chart 6 Transparency & Equity Indicators compared

Application and decision practices

- comparing cases, countries and 'country blocks' -

Chapters 5 to 11 presented detailed evidence on European permit application and decision making practices. In all, twenty-seven major private projects were considered in detail and a further five from England referred to. Tabulated data for all thirty-two cases is given in Appendixes 7,8,14,15 & 16 for reference. To examine and discuss this material three mapping frameworks were imposed on these research findings - heuristic models of the permit decision process, decision matrixes, and transparency & equity assessments. Additionally these chapters identified numerous factors impacting on these decisions (4.3) and, where possible, compared assessments of mainland countries with England. In so doing they addressed the first three levels of analysis proposed (4.3), and considered, on a country by country basis, the degree to which these decisions observed the 'rules', the extent to which the processes were transparent, and the level to which decisions and processes were based in, and delivered, equity.

Chapter.6 suggested that wide divergence in these findings might be associated with falsification of the hypothesis (6.2). But, as has been seen, most cases appear to follow a similar pattern - even to the extent that they begin to appear repetitious. While this is not entirely so, each case adding to the accumulating evidence needed to understand what lies behind this replicatory phenomenon, this repeated pattern of application and permit decision making practices begins to support the hypothesis.

This brief chapter introduces chapters 13 to 16. It explains the methods common to them which are used to consolidate this material, to make further comparisons between countries, and to place the practices observed in context with the literature. In so doing they complete the 3rd level assessment (4.3) of the strategies and interests of actors, identify the way different roles were played and relationships developed, and relate this to the resources, rules and ideas governing the cases. They then move on to address the 4th level of analysis, considering what social conceptions informed these practices and theorising on the nature of and relationships between those modes identified.

It will be recalled that the case studies were viewed not as an end in themselves, but as 'windows of opportunity' through which to gain a better understanding of mainland permit application and decision practices (4.6.1). Accordingly, these next four chapters also draw on 'expert opinion' evidence

obtained not from case actors, but from property industry professionals and academics. This was garnered as sub-hypotheses were tested during field research (4.6.12).

12.1 Data treatment, categorisation and confidence level

As already noted (6.4) the allocation and analysis of qualitative data is necessarily a subjective exercise which might well be treated differently by another researcher. Here, to examine and compare the data produced by this research further, this was allocated across 26 classifications and 154 categories. Apart from those classifications predetermined for the heuristic model and development types (Ch.4), these emerged from the data itself. Classified according to the sub-research questions, these categories were arranged in 26 tables. Each case was then assessed according to whether it did or did not display the attributes categorised. Non of the categories used was absolute, it being possible for one attribute to be mixed with others in the same or in another category or classification. Sometimes this resulted in a higher class count than the total number of cases, as shown in the detailed tables provided at Appendix 7,8,14,15 & 16. The quite fine grain detail of decision making practice, which these present at case and country level, is referred to in the following chapters. They draw on several summaries of these tables, presented in chart format, to illustrate discussion. Where the thirty-two cases are spread between countries or categories, the charts may have a lesser range. Categories may be identified by reference to the legend on each chart which is separately classified. Because some of the classifications found in the tables were considered not to add significantly to analysis, these are not presented. To assist the reader, colour codes are used to help cross reference between text and chart. However, occasionally a text colour may not be available to match the chart colour, in which case the text colour is given as grey.

Referring to the universe of thirty-two, major private development cases, to aid comparison, as well as being presented by country, some of the case material is separated into 'country blocks' - mainland EU (17 cases), Central Europe (4 cases) and England (11 cases). Ratios between these 'country blocks' are shown divided by a colon, e.g. (3: 5: 1). Fractions, e.g. 0/32, are interchangeable with percentages (%). Small discrepancies occasionally arise between figures, due to whole number rounding errors. However, this is of minor significance since percentages are used merely as a device to aid comprehension. They do not give a quantitative scale and should be treated with circumspection. Comparisons are of patterns between cases and cannot be generalised to all cases possible.

12.2 Testing theory

Theoretically the English planning and development control system is led by policy and measured by performance. In contrast, mainland European systems are ordered by legal local development plans and related codified 'rules' but, since they must in theory abide by these, other than with reference to 'conformance' they appear to have no yardstick for measurement. However, although this latter situation may now be changing, such enquiry was not the object here.

Mainland local plans, which are legal instruments in their own right, supposedly allocate land for development impartially²⁷⁵. As such, they enshrine rights and responsibilities for land owners, the municipality and the neighbouring community, and development must be executed strictly in accordance with their provisions, which can be extremely detailed (e.g. CE-01), or, in their absence, special regulations.

Considering this not to be a true reflection of current practice, it was asked:-

“Do mainland application and permit decision processes demonstrate their legitimacy, transparency and equity in relation to historical rights and interests in place?” (4.1.1)

Guided by this question, research concentrated on the legitimacy, transparency and equity present in those forces driving development applications and permit decisions, using 4 main headings of enquiry (4.1.1):-

- Process
- Decisions
- Interests
- Behaviour

As with the case studies, these headings were also used as ‘windows’ through which to address the main question. Interrelationships between them often meant that information produced in response to one question had relevance to others. Furthermore, although a particular analysis may not have been interesting for a given question, it could be insightful for others. While, therefore, the concern in the next four chapters is not with these individual elements, following these headings, their combined responses are ordered under the chapter headings of: The Process of land conversion (Ch.13), Interests & Issues in land conversion (Ch.14), Application & Permit Decisions for land conversion (Ch.15), and Behaviour in Decisions for land conversion (Ch.16).

12.3 Caveats

As noted in 1.9 and 6.3., care should be exercised when reading the individual quotations included to illustrate text since these may reflect personal bias or hidden agendas on the part of the informant. However, care has been taken to place these in context and, when read in conjunction with other quotations and as part of the whole area being discussed, it is believed any such negative effects are minimised. Indeed, as explained in 4.6.11. and as evidenced by the schedules of interviews provided at Appendixes 7 & 8, considerable effort was expended to ensure that all information was verified and validated.

²⁷⁵ but see Appendix 10 & 14.5.2

The Process of land conversion

Theoretically, in the mainland countries considered, land-use is determined when the legal local plan is made. In the absence of such a plan land-use is defined by substituting regulations. It is on this presumption that mainland development control systems are founded and upon which their ability to be fair, just and impartial relies. This chapter considers some of the background aspects of land conversion which could have implications for this presumption.

13.1 Land-use and change

Drawing on the detailed tables of these background circumstances by country and development type (Appendixes 14 & 15), 1, Chart 7, p.235, summarises the detail of appeals, plan and policy changes made relating to permits, Chart 8, p.236, summarises the best estimates of the time periods over

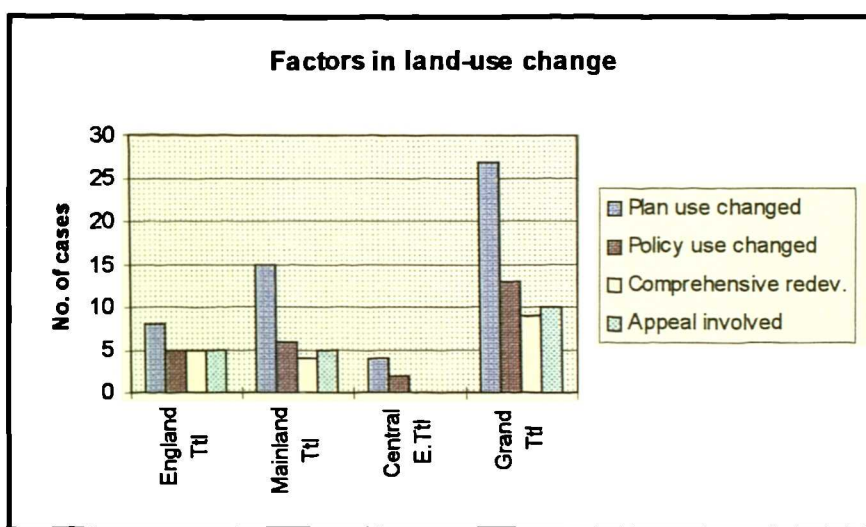


Chart 7 *Factors in land-use change*

which land-use change 'matures', and Chart 9, p.236, summarises some of the driving forces behind such change.

In a remarkable 84% of all cases the land-use plan applicable immediately before the development idea came forward (4.7), was changed (Chart 7).

This was higher in mainland EU countries (MEU) than in England and occurred in all Central European (CE) cases²⁷⁶. However, in a large number of mainland cases there appeared to be no land-use policy to change. Overall such change was therefore seen in only 41% of cases. Comprehensive development featured twice as prominently in England as on the mainland, reinforcing the thought (see Site types) that brownfield sites are either not so prevalent or are receiving different consideration on the Continent.

Averaging 13 years (Chart 8), the process of 'maturing circumstances' seems longer in England than

²⁷⁶ Possibly understandably, given reaction to the former regime

the 9 years of MEU countries. Yet at 2 years the average time taken from idea to permit is the same. Probably as a reaction to the former regime, change in CE land-use averages only 4 years but needs a further 3 years to obtain permits. This reflects the rapidly changing situations

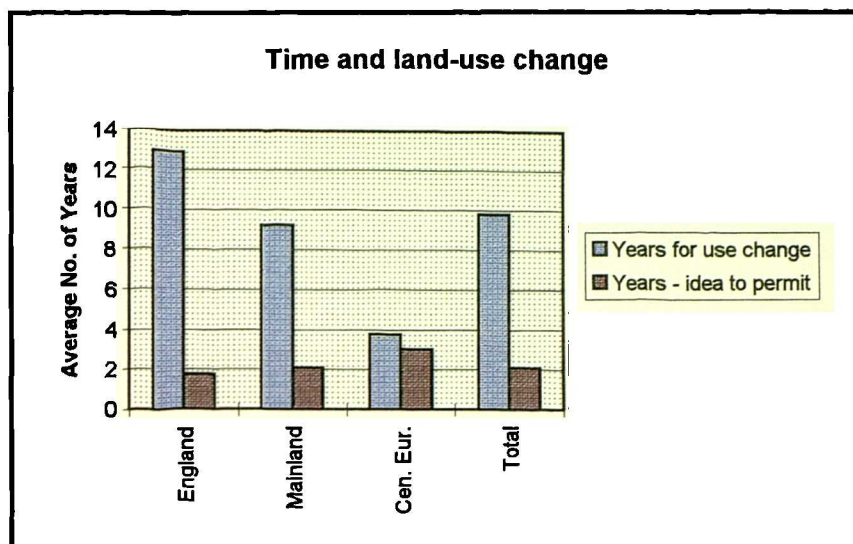


Chart 8 Average time of land-use change

in which entrepreneurial forces seek development opportunities, but are then constrained by remnants of centralist control and regulation.

While systems and principles of appeal differ (Chart 7), 45% of English and 29% of MEU cases involved some or all parts of the available appeal process. Superficially this suggests conflict over decisions, since, in contrast with England's appeals to the SoSE which are available only to applicants, continental administrative appeal processes are primarily intended for 3rd party action after grant of permits. But it also reflects the fact that such processes were used to help obtain MEU permits.

13.1.1 Forces driving change

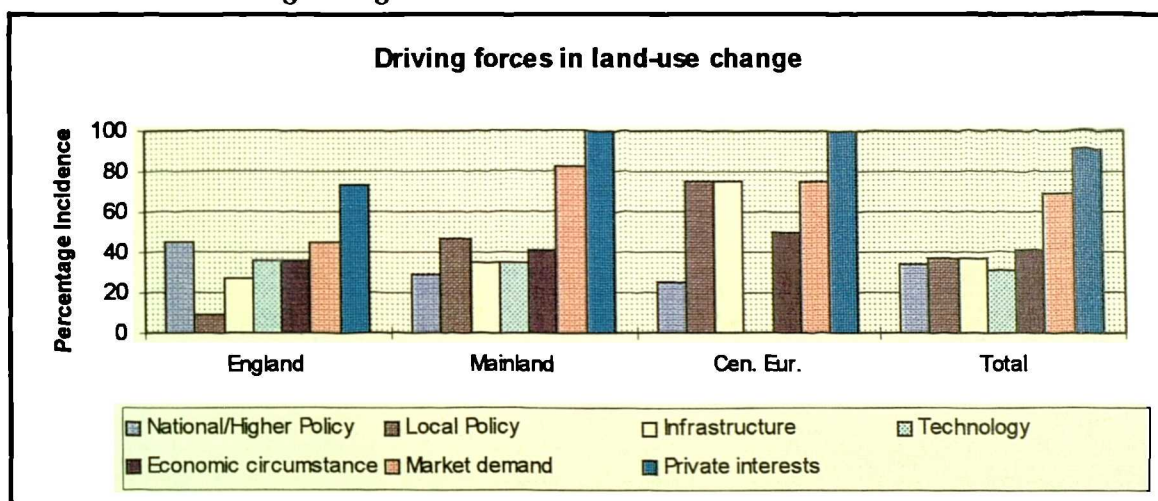





Chart 9 Some forces driving land-use change







Overall private interests (91%) and market demand (69%) were seen as the most important of the driving forces identified in the table for land-use change (Chart 9). Both were much more in evidence on the continent than in England, market demand being twice as high in the MEU. In England, although not necessarily or even usually land-use related, supra-local policies exerted more influence on land-use change than on the continent (45:29:25). Conversely MEU local policies appear far more important than in England (9:47:75). This supports the view that English municipalities are

subject to more higher level control than their continental counterparts (see *rule observation*).

Infrastructure change  is also seen as encouraging land-use change more on the continent than in England, but was most evident in Central Europe. There, technological change  did not feature at all, although in the other 'blocks' it had equal (35%) representation. Conversely, economic circumstances  - often harnessed by entrepreneurs - seemed more important in driving CE land-use change than in the other regions, where nevertheless this had a similar (36:41) showing.

13.2 Development types

Because the consideration of individual criteria rendered insufficient data available for their satisfactory comparison, little was said about development types in Chapters 5-11. However, the ability to tabulate these for all countries now enables several further observations to be made about these.

Chart 10, p.237, illustrates how cases were divided between the predetermined development types and a further 'mixed'  category, made necessary by 14/32 cases being of a mixed nature. This was higher (73%) in England where residential  was the largest single type, but in only one of the English cases, a greenfield, peripheral project (E-03), was residential the sole type. Overall, exclusive types were industrial  (3%), commercial  (6%), shops  (9%), leisure/hotels  (19%), and residential (19%).

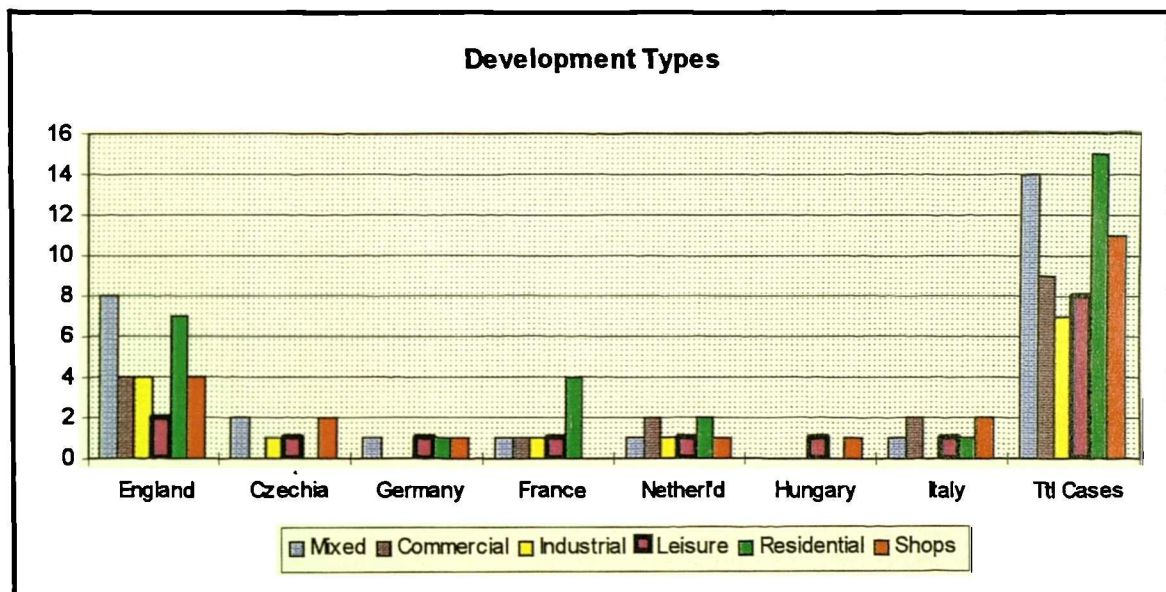


Chart 10 Development types by country & total

These findings indicate a strong interest in mixed development, 64% of which include residential elements, and in residential development itself, 47% of the total (15/32) being, or including, housing. Some developers may include politically desirable housing elements to help smooth the path of re-allocation, e.g. E-04, E-11, D-02, F-01, N-05. Interestingly the focus on mixed development pre-dates July 1995 Government moves in the UK to encourage²⁷⁷ this, suggesting that this 'policy' may merely reflect an already established trend. Indeed interest in mixed development has been growing in

²⁷⁷ Secretary of State for the Environment, John Gummer, announced the encouragement of mixed development as most appropriate.

notionally pre-planned mainland countries for some time²⁷⁸. This suggests that, despite clear plan based policies which separated or 'zoned' discrete development types, other, more powerful forces were at work against these. Possibly encompassing social, welfare, industrial, commercial and economic trends, generically these are referred to here as 'market' forces. In this sense the 'market' can be said to both lead and inform policy change, as shown by the dynamics diagram in Chapter 2. Given that a spread of developments was aimed for, further analysis merely of development types would be spurious.

13.2.1 Influences on and of development type

However, although plans and other 'rules' have been shown to be of little importance in the decision making process, Chart 11, p.238, indicates that in 2/3rd of all cases, the type of development proposed and its interaction with both these 'rules' and the forces driving change were considered by informants to have a large influence on decisions. This was seen more often on the continent (76%), than in England (45%), where medium level influence rated more highly.

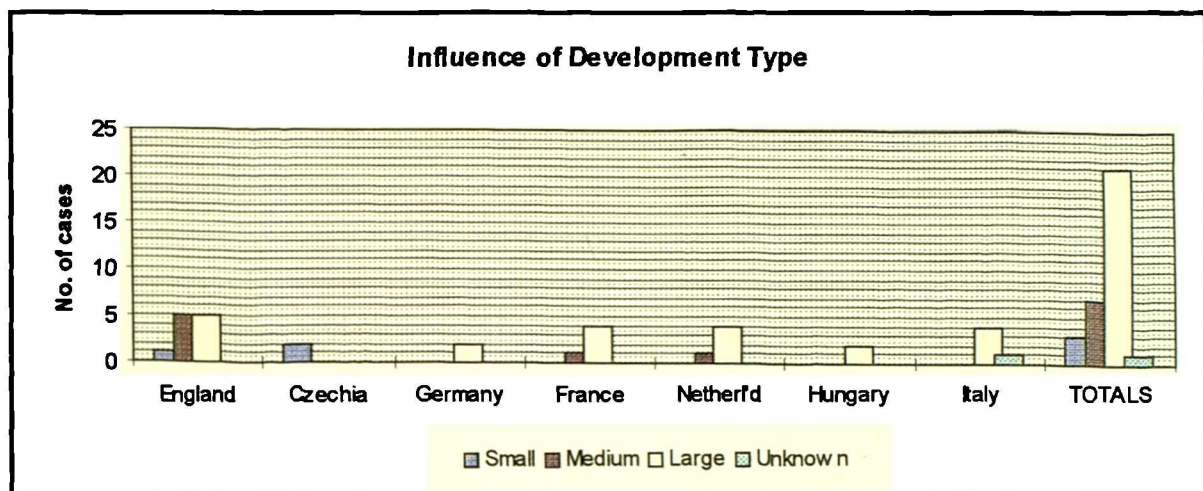


Chart 11 Perceived influence of development type on permit decisions by country & total

However, the reasons for this are not always the same. City image, developer pressure and market demand all have their place. As one English planning officer confided "To get our own prestige developments and prove that the city could manage its own property affairs (the committee) were prepared to ignore protection of commerce in the city centre." (E-06/1) while in contrast another explained, "Local plans in general are over-ridden or circumvented because of market pressures in favour of development." (E-03/1).

In only a few cases did development type rate only small importance and in only 1, Italian, case was such influence indeterminate . Indeed, "Local planning policies are frequently over-ridden for political expediency if it makes sense to secure a particular development" (E-04/3, L/A area planner). To consider the relationships which such change and the drivers of change, had with development type, Figure 62, p.239 reallocates the summarised data for all thirty-two cases into 5 basic groups; Leisure (Hotels), Mixed, Residential, Shops and 'Other' (2 commercial, 1 industrial, 1 enter-

²⁷⁸ Healey, August 1995, personal communication.

tainment, 1 health care).

All hotel and shop (superstore) developments involved changing the plan but, whilst all superstore

| Ch11-Change | | CHANGE | | | | | | DRIVER | | | | | | |
|---------------|------|------------------|--------------------|----------------------|----------------------|------------------------|-----------------|------------------------|--------------|----------------|------------|-----------------------|---------------|-------------------|
| CASE | TYPE | Plan use changed | Policy use changed | Comprehensive redev. | Years for use change | Years - idea to permit | Appeal involved | National/Higher Policy | Local Policy | Infrastructure | Technology | Economic circumstance | Market demand | Private interests |
| Leisure-Htl | | 6 | 3 | 1 | 43 | 11 | 0 | 3 | 4 | 2 | 1 | 4 | 5 | 6 |
| % Ave. of 6 | | 100 | 50 | 17 | 72 | 2 | 0 | 50 | 67 | 33 | 17 | 57 | 43 | 100 |
| Mixed Total | | 8 | 3 | 4 | 107 | 18 | 4 | 2 | 4 | 5 | 3 | 3 | 4 | 11 |
| % Ave. of 11 | | 73 | 27 | 36 | 9.7 | 2 | 36 | 18 | 36 | 45 | 27 | 27 | 36 | 100 |
| Residentl Ttl | | 6 | 3 | 2 | 85 | 15 | 2 | 2 | 2 | 2 | 2 | 3 | 5 | 5 |
| % Ave of 7 | | 86 | 43 | 29 | 12 | 2 | 29 | 29 | 29 | 29 | 29 | 43 | 71 | 71.4 |
| Shops Ttl | | 3 | 3 | 1 | 36 | 8 | 2 | 3 | 0 | 1 | 1 | 1 | 3 | 2 |
| % Ave of 3 | | 100 | 100 | 33 | 12 | 3 | 67 | 100 | 0 | 33 | 33 | 33 | 100 | 67 |
| N-02 | C | 1 | | | 10 | 3 | 1 | | | 1 | | 1 | 1 | 1 |
| CE-01 | C | 1 | | | 5 | 2 | | | 1 | 1 | | 1 | 1 | 1 |
| I-04 | H-PC | 1 | 1 | | 7 | 5 | 1 | 1 | | | 1 | | 1 | 1 |
| N-04 | I | | | | 11 | 2 | | | | | 1 | | 1 | 1 |
| E-06 | L-E | 1 | | 1 | 10 | 2 | | | 1 | | 1 | | 1 | |

Figure 62 Change and development type

schemes also involved policy change, this was only true in half the hotel cases. Likewise, in the mixed and residential projects, policy change was only apparent in half or less cases. From this it would seem that major retail development may be more policy sensitive than other forms of development, an observation supported by the time scales involved in the maturing of circumstances, the time taken from idea to permit, and the incidence of appeals (13.1), all of which were greatest for shopping (superstore) schemes. The provision of superstores seems heavily influenced by change in higher level policy, also a feature of leisure (hotel) devel-

opments, although for these, change in local policy seems more important. Often linked to economic (tourist) considerations and strong private interests, local policy seems less important for shopping than national policy.

When linked with other findings it seems that the impact of lobbying on higher level policy may be more important for superstore developments. However, both these and hotels were seen as being strongly driven by change in market demand.

Now whilst ratios of residential to other forms of development throughout any country in Europe are hard to come by, according to Barkham (1995) the gross value of housing development may be four times that of 'commercial'²⁷⁹ property development. Thus, given that residential property, m² for m², is often the least in value²⁸⁰ of these, residential property may be said to require much more land; a

²⁷⁹ includes office and retail but not industrial property.

²⁸⁰ Value here relates to the capital value of a completed project, not cost. Some small industrial or office units, especially if built for owner occupation, may have a lesser value. Property prices will also vary with location so that, for example, the value of houses with a high specification in SE England may be higher than

fact which is readily observable almost everywhere. If the volume of residential building approximates to that of other types of construction, as indicated by the UK figures ²⁸¹, and given the extent of residential provision within mixed schemes this may indicate that, across Europe, housing is being provided on a greater number of relatively small sites. By their nature, these small sites have important significance for local communities. Furthermore, the suggestion (D-02) that housing may be used as a tool to secure change and to lever other, more lucrative, forms of development from municipalities as part of mixed schemes, finds some support in the higher showing of private interests in these. This potentially compounds the local significance of housing and mixed housing development. Market demand seems less important, although still relevant, for independent residential schemes, leading to the overall impression that private development interests may be a more important consideration than market demand. This ties in with the idea of municipal involvement in development and holds for hotel development but not, apparently, superstores, where market forces are paramount. Infrastructure change also appears to be more influential for mixed developments than markets, holding similar importance for other types of developments. The influence of technological change was greatest for shopping and least for hotel development.

13.2.2 *The influence of property supply and demand*

In England "*Local plans in general are over-ridden or circumvented because of market pressures in favour of development.*" (E-03 1). In the Netherlands "*the reality is that economics drive decisions, with policy shifting to allow markets to dictate.*" (N-NPI). Even so, the influence of supply & demand for development on decisions, is seen as being large in only around 1/3rd of cases on either side of the channel. This seems much less clear than the influence of development types (13.2), which may be linked to concerns for 'image'. What this suggests is that, as for example Healey (1990) found in the Hebburn Shipyard case, corporate interests, whether private or governmental, to some degree press forward with development with a reduced regard to supply and demand, i.e. development is policy driven and may be supported with subsidy.

While England has some important rules and places strong policy emphasis on the supply of and demand for property, continental decisions seem to pay somewhat greater attention to this. Greater direct interest and involvement by mainland authorities in individual major developments may account for this. Where developers wish to and are able to exert strong influence on the process, e.g. N-05,

for low specification commercial offices in the NE. However, location for location and quality for quality, values of newly built property are here considered to be least for residential projects.

²⁸¹ D.o.E. output data based on constant 1990 prices for the year 1994

Total industry output including repairs and maintenance £50.125 Bn.

Total new construction £29.7 Bn.

Infrastructure £6.24 Bn.

Public Works £5.47 Bn.

Public Housing £1.78 Bn.

Private Housing £5.87 Bn.

Private industrial £2.913 Bn.

Private commercial £6.956 Bn.

(D.o.E. 1994)

then such considerations seem to become more important. This may arise for several different reasons. For example, English developers may internalise these factors, which impinge directly on financial affairs, more than their continental cousins. They may be more skilled and practised in the sale and marketing of projects (except perhaps residential). Their operations - particularly at the application stage - may be more speculative; and English local authorities may be less interested in the promoter's ability to realise the project than on the continent. In all countries commercial pressures from, for example, investors and financiers may push developers to maintain operations. As one French Maire confided "*Regulations can always be led astray. The only true constraints are financial ones*" (F-02/5).

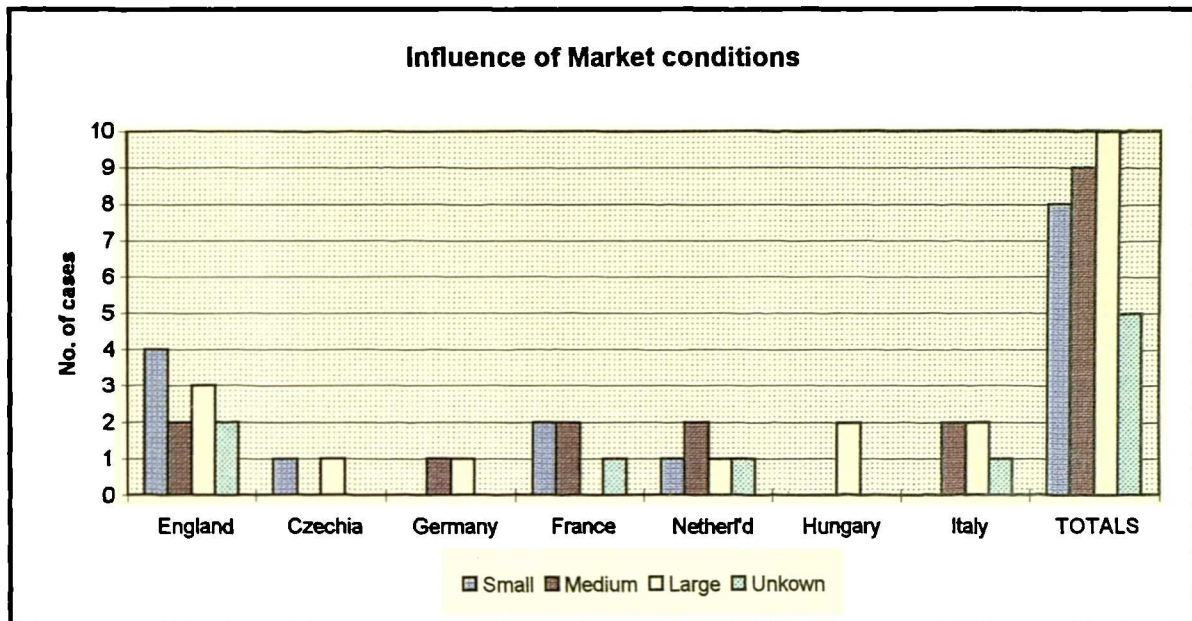


Chart 12 Influence of Market conditions on decisions by country & total

13.3 Site types

Sites were selected without preconception. Site types (Chart 13, p.242), derived from the cases were:-

- *brownfield* - abandoned properties in, or falling into, dereliction;
- *greenfield* - non-urban use, e.g. farmland, woodland, green wedges
- *urban* - land enclosed by an existing urban area but previously un-built;
- *redevelopment* - conversion or demolition and rebuilding for an alternative use of property in or suitable for currently designated use.

As with development types, the range of sites seems reasonably well spread.

Brownfield sites occurred only in England (3) and Italy (1). Those in England were all effectively abandoned if not cleared. However, the Italian case (I-02) could be regarded as redevelopment rather than brownfield. Although the factory had closed, arguably it could have enjoyed continuing industrial use. Its size, and the less than interesting nature of tertiary property investment²⁸² to the owners, linked no doubt to general economic restructuring in the area, caused wholesale renewal. The fact

²⁸² 'tertiary property investment': investment in 3rd level properties or locations, these being neither 'prime', as with, say, city centre locations, or 'secondary' as with, say, local area shopping parades, but possibly 'back street' or poorly serviced and located properties.

that many of the buildings were retained and converted owed perhaps more to the politics, and possibly economics²⁸³, of the situation than anything else. Although not generalisable, this finding suggests that something different could be happening with brownfield sites in mainland Europe (5%) as compared with England (27%) (see below, *Greenfield*).

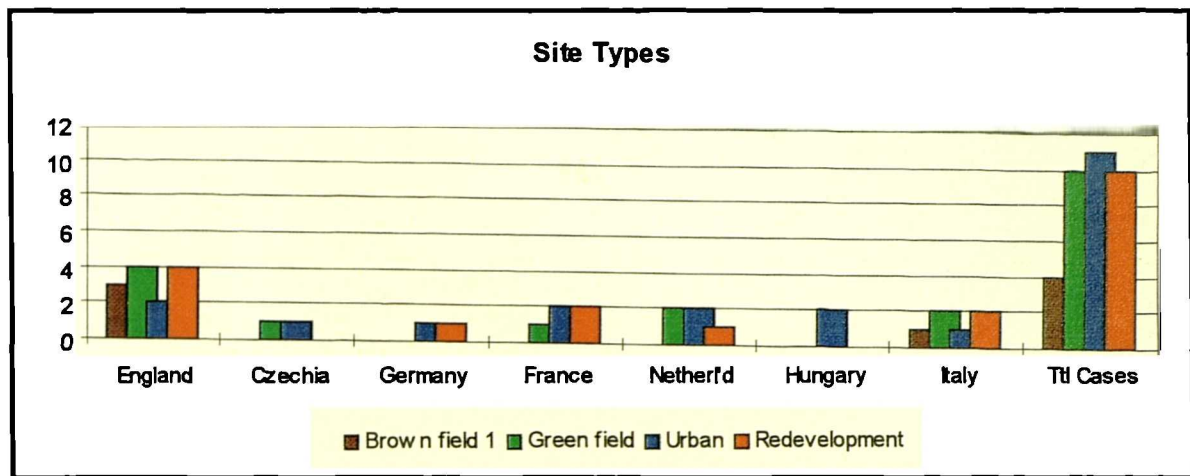


Chart 13 Site types by country & total

Greenfield development (10/32), represented around 1/3rd of cases both in England (36%) and on the mainland (29%), but the use of these was quite different. On the mainland 83% were for single type developments, in England 75% were mixed projects. However, while all four English greenfield sites were on urban peripheries, where adjacent or nearby road infrastructures contributed to their being brought forward, this applied to only 4/6 of those on the mainland. This may indicate something about availability of infrastructure, which is usually cheaper for greenfield sites and in England is often provided by developers. On the continent this tends to be provided by municipalities and may favour brownfield or urban schemes. Municipal site ownership, acquisition and assembly costs, both in time and money, together with mainland powers to control prices and expropriate may also be influential. Sometimes these are made available to or for developers; e.g. CE-04, F-01, F-04, N-01. However, it could just be that end user locational demand for different types of development varies between England and the mainland.

Urban sites proved similarly interesting, although appearing more frequently on the mainland than in England. They suggest that endemic 'change' exerts a major influence over policy and other 'rules'. Indeed, some form of social, commercial, and infrastructural change - often in combination - was present in all eleven urban sites. The two in England were designated sports grounds. One (E-05) had a history of decline, the other's use was linked to a factory redevelopment (E-10). Although two on the mainland (F-03, I-01) could have been classified as redevelopment, the large areas of land surrounding the buildings caused them to be included as urban. In both, commercial imperatives flowing from social and economic change featured highly. Of the other nine, CE-01 was on land made 'waste' by a new by-pass road interchange, D-01 was on a small park, the nature of which had been changed by

²⁸³ Despite the owners protestations that it would be cheaper to clear the whole site.

new tram technology and related change in infrastructure, E-05 & E-10 were sportsfields made (arguably) redundant by a more mobile population and factory moves, N-03 added extra floors to an existing hotel as part of civic response to commercial and social change and N-05 developed land previously left vacant by commercial agreement, but in ways which responded to commercial and social change. In CE-03 a small park fell subject to changed road usage and the 'free enterprise' culture, and CE-04 was effectively made available by political changes enabling police restrictions to be lifted.

Redevelopment sites themselves reveal a surprising similarity across Europe. Again representing around 1/3 of the English and MEU cases, the practice of re-allocating existing use may be fairly common. England openly provides for use re-allocation but in the light of these findings the notion that on the continent established use patterns are sacrosanct unless lengthy, formal procedures for revising these is undergone (see Ch.2, 3), appears incorrect.

When *urban* and *greenfield* types are combined, 66% (21/32) are found to be on virgin²⁸⁴ land. This reduces to 56% if those combined with redevelopment sites are excluded, but does suggest a preference for developing such land. This seems more marked in mainland Europe (71%) than in England (54%), although two of these (E-10, E-05) were a mixture of urban and redevelopment land, emphasising the difference noted above regarding the treatment of brownfield sites.

Infrastructure may have more to do with practical development location than mere peripherality.

Subject to the same caveat as above, it is interesting that not only were 80% of the greenfield cases on urban peripheries, but that they were located adjacent to or nearby road infrastructure changes.

Whilst case (I-04) was well inside the periphery²⁸⁵, it too was near a major new access route interchange. Given the spread of countries and cases this seems more than coincidence. It could indicate something about policy frameworks or just that the cases challenge these merely at the margins.

13.4 What do these considerations suggest?

As Albrechts (1994) suggests, structural change seems to be at work across Europe. That it has been at work in England for a long time is clear from the various repeated attempts to obtain alternative site uses over many years (Ch.5). The form of most continental records precludes comparative observation, but various indicators suggest this may also have been so there, e.g. F-01, D-02, I-02 as does the maturation period (13.1). However, although such change seems to have made previous plans out of date, all mainland municipalities still use these as policy and decision making referents. If English 'flexibility' has allowed adaptation, continental systems have stifled or hidden such pressures. They are now being forced to respond as good market and policy reasons promote plan and policy changes (see Ch.14). These trends seem to be shifting the focus of attention from 'master planning' to development plans, that is from plans as instruments of long term allocation and control to their use as tools of imminent development. This is evident from the large number of mixed developments, which

²⁸⁴ Virgin land is land previously undisturbed, i.e. not subject to development works on, over or under.

themselves imply that systems designed around single use site allocation may not be robust at the point of permit delivery. Indeed, although the tendency to include housing may indicate developer tactics, both may reflect professional and commercial uncertainty over single use 'zoning'. This indicates that the certainty upon which continental plan conformance systems rely to deliver 'equity' may have been substantially undermined.

Planning systems also seem to be (re)directing developers preferences for virgin land from greenfield to urban sites. This could be considered as a move toward "town cramming" (Evans 1991), as well as, arguably, environmentally desirable development. But whether or not planning systems can satisfactorily re-direct market forces to address the problems of brownfield redevelopment (see Watson 1992) is a question perhaps more related to the changing nature of local governments, their competitive inter-relationships and degree of autonomy (see Batley and Stoker 1991). What this does indicate is that a greater number of smaller, possibly mixed, developments may be having more widespread impacts upon local communities.

If these observations are even partially correct, then a shift in planning concepts, perceptions, attitudes, practices, skills and training may either be underway (see Lundahl 1996) or in imminent prospect (see Benfield 1995). Whether planning systems and the shifts identified do or will allow transparency and the equitable treatment of all interests, is considered further in chapters 14-16.

13.5 Theorisation - the production of development sites

Land cannot be planned into use but must await the coincidence of its own 'ripening' with political and market conditions before development permits can be successfully applied for and implemented. Such coincidence may arise when failures in strategic planning occur and be driven more by political and commercial objectives than planning imperatives. However, in the main, if commercial criteria are not satisfied the private sector will not build.

Thus development applications result from the convergence of power interests with land's 'maturing circumstances'. This convergence takes place when powerful ideas persuade commercial, political and bureaucratic interests of their efficacy. It involves various other forms of power, for example to withhold, to lobby and to implement as well as the power of knowledge, technology and specialisation. In themselves these are impacted by the power of sinecure and certainty, and by the weakness of administrative and policing power. All combine to address the 'rules', the power of which is then applied or abandoned in varying degrees (Ch.14). It is through the permit application that power, in all its forms, is given expression.

On the evidence of the research cases, therefore, and contrary to literary expectations, in mainland Europe major private sector development sites seem to result not from the work of planners or plans, but from negotiations between politicians and developers. In so doing consideration for 'equity' in

²⁸⁵ The over ambitious 1976 PRG had 'planned' for twice the achieved population, meaning that vast areas of greenfield land remained well inside the town's periphery.

decisions is often overlooked or discarded, either deliberately or by accident. Aided by progressive practices of circumventing the 'rules' entrepreneurial endeavour seems to bring land forward - to 'mature' it - for development, more quickly than in England. However, as comparisons are made from England to the MEU to CE countries, the time taken from development idea to grant of permit are all much the same. Any extra time taken in Central Europe is considered as 'bureaucratic overhang'. This may be a function of logistics - the sheer time it takes to convert ideas into applications which address the 'rules'. But, even though there are fewer rules in England, given the extra need of mainland systems to find paths to permit flexibility, in practice they may be operating more quickly. One reason for this may be that, as developers complain and, as Adams (1994, 224) recognises, English planners appear to resist (architect designed) proposals without apparently recognising trends for or presenting any case against these. Often they use 'rules' to freeze the situation and give themselves more time. This also occurs on the mainland²⁸⁶ but under political direction, apparently informed by architectural and engineering traditions but without reference to 'planning principles'. Challenging Adams *op cit.* notion that the 'visions' of planners will somehow 'capture the imagination of developers and investors', two observations arise. First, there may be a difference in the use of 'rules' to delay decisions. In England this could be because lack of information leads to uncertainty of the wider implications. On the mainland it could be to establish a better bargaining stance. Second, insensitivity to or even unawareness of broader planning issues may make continental design orientated systems more suited to handling individual sites than the English system. Indeed, it has been argued that English planners lack ideas for the future of individual sites²⁸⁷. In itself this may reflect professional difficulty in addressing small site problems. Furthermore, there seems little point in their having ideas if they are reliant on private developers to realise these.

This raises the importance of the debate over the planner's *reactive -v- proactive* role, which Adams *op cit.* appears to recognise. The suggestion here is that, in any reform of planning systems, they should be divided into separate elements. *Proactive* to address long range, strategic and sustainability issues and to engage with developers in imaginative and flexible project interpretation of these, rather

²⁸⁶ e.g. as in D-02 where the planning officer confirmed that the 'stop' notice was used as one such device.

²⁸⁷ Benveniste (1991) argues that effective planners must use informal structures to sensitise stakeholders and initiate new ideas as instruments for change in organisations and communities. Ward (1994b) emphasises the importance of ideas in shaping policies in relation to planning's intensely political nature.

than, as Adams (*op cit.*) suggests, have independent 'visions' for them. *Reactive* to balance these institutions through careful reflection on the short, medium and long term impacts of any scheme on the immediately local community.

Interests and Issues in land conversion

Predetermined mainland plans and 'rules' should address interests, issues and other pressures. This chapter examines how, in practice, those of these factors emerging from the research, may influence permit decisions for major private developments and sets them against the concerns for due process, transparency and equity.

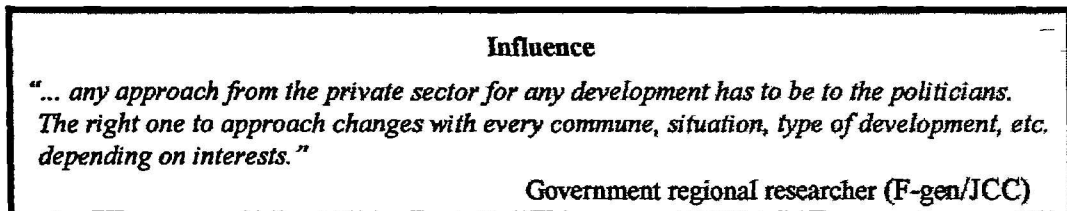


Illustration 2 *Influence in decisions*

14.1 Interests

Issues and interests, like wants and needs, are not necessarily related, although they may be. Chart 14 & Chart 15 summarise those interests found to be present in the cases (Appendixes 7,8,14,15,16), not whether they received equal treatment nor how they weighed in making decisions. Although a range of interests are at stake in the permit decision process, those which were most usually advanced fell into only two readily apparent types; the economic interests of the entrepreneur, whether private, corporate or municipal, and the personal interests of, for example, professionals, politicians or officers, for position and status. In the main those interests unable to influence these two groupings seemed largely ignored.

Commercial ■ **Professional advisors** ■

As perhaps may be expected, in a consideration of major private projects, commercial interests were present in 97% of all case decisions (Chart 14, p.248). But the similar high presence of professional advisor's interests (87%), roughly the same on both sides of the Channel, seemed to represent more than professional concern for the client, possibly reflecting the commercial interests of these professionals themselves. Many of the cases suggested that these were separate from, and may even have been preferred above, those of the client. Perhaps more importantly, with mainland plans not being implemented as intended, it is possible that professionals may actually encourage their negotiation rather than implementation. Thus, engaged by landowners, developers and municipalities, professional interests would appear to be important decision influences. However, as an Italian Professor

cautioned, since "... prices... are in the hands of the big contractors ...there is a strong linkage between the professions and the construction industry." (I-gen/DB/5). This suggests, as might be imagined, that professional interests may be closely linked with those of their paymasters.

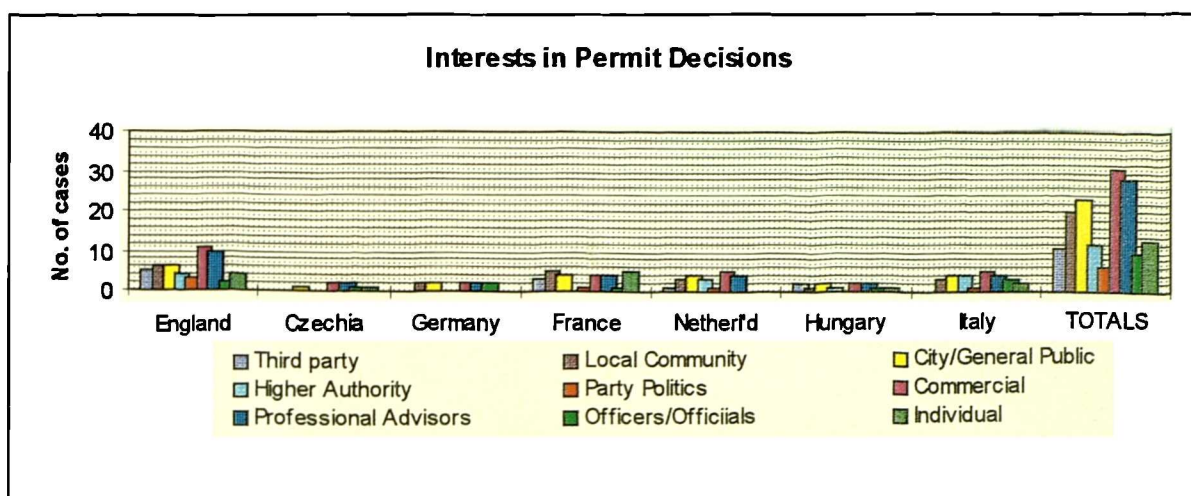






Chart 14 Interests found to be involved in permit decisions by country and total

Local Community  **Individual**  **Third Party**  **City/General Public** 
Such overwhelming commercial interests were not mirrored by municipal concern for community²⁸⁸ or general public interests²⁸⁹, present in 63% and 72% of cases respectively, nor did municipalities appear over concerned for individual²⁹⁰ or third party²⁹¹ interests, this time present in 41% and 34%, respectively. From the municipal side the general public interest was expressed through economic concerns and was decidedly more noted in all mainland cases (80%) than in England (55%). In the English cases local interests remained the same, but on the continent this dropped to 67%. In contrast, third-party interests, present in 45% of English cases, were only seen in 29% on the mainland, possibly reflecting the (mis)conception that such interests are taken care of by mainland systems. On the other hand, individual interests, as distinct from corporate interests, were also more or less equally represented (38%-36%) (Chart 14). Most of these often involved individual politicians. As one Dutch developer observed, decisions often related to the "... ambitions of the mayor and politicians." (N-D).

Party politics

In contrast, and with only a 19% showing overall, local party politics appeared to have only a small interest in decisions. With few exceptions it seems that individual planning and development applications were not the stuff of party political infighting. Yet the low incidence of party political and individual interests suggests other factors may have been at work; for example it is possible that commer-

²⁸⁸ see glossary for definition given earlier

²⁸⁹ see 2.4.2ii

²⁹⁰ 'individual interests' separates the personal interests of actors like politicians, professional employees and directors, from those formal interests which these same actors may have in the project and related issues by virtue of their position.

²⁹¹ 'third-party' interests may not necessarily have a legal right or interest in the project or decision, e.g. title or formal consultation, but are held by those who consider themselves to be impacted by the proposals, like neighbours, special interest groups, etc.

cial interests played a large part because policies and politicians sought to compete with other cities by promoting 'image' to attract jobs and development. Interests may thus become issues.

Higher Authority

This contrast, coupled with the poor showing of environment, social and welfare interests (Chart 15, p.250) supports the notions of privileged rights of access and input to land related decisions. However, in apparent contradiction of the comments on tiers of government (14.2), the appearance of higher authority interests in only around 1/3 of English and mainland cases (Chart 14), suggests that conflicts with them may have been small. If present, they did not necessarily motivate decisions.

Officers/officials

Continental officers often appeared trapped between the 'rules' which required them to administer the plan, and political direction to the contrary. As a German Chief Building Officer complained, ... *it was a bit like blackmail ...*". (D-gen/5) Unsurprisingly, then, that their autonomous interests recorded a relatively high 38% (Chart 14). In contrast the interests of English planning officers rated only 18%. Although, as one noted (E-06/1), while English planners may be "... *coerced into approving things they are not keen on by politicians*" ²⁹², they do appear relatively free to discharge their professional duties. Conversely, on the continent, where politicians often had '*clients*' to be looked after²⁹³, as the same officer continued "... *the professional integrity of officials (was) ... compromised (both) by pressures from above and the politicians.*"

14.2 Issues

Lower level policy **Higher level policy**

Supporting the observations made in 14.4 and Chapter 15, it is striking how high the prominence of lower level policy was on the mainland (81%) compared with England (36%) (Chart 15). Higher level policy also seemed to play a significantly lesser role on the continent (33%) than in England (45%), even though in 3 mainland cases higher and local policy were directly at odds, with the potential for this to occur more frequently, observed in several other cases. As was also found by various investigators²⁹⁴, the implication is that English municipalities may be more constrained by higher (national) level policy than their continental counterparts.

This contradicts the observations made in Chapter 2²⁹⁵ that continental systems employ hierarchical and legal plans and centrally codified 'rules', while English authorities have greater autonomy. The contradiction could be related to the number of tiers of government, England having less than elsewhere (3.2), or the English system could be subject to greater coercion, via a politically orientated

²⁹² Since ultimately the decision is that of the politicians, this may be more revealing of the officers 'attitude of mind', than anything else.

²⁹³ e.g. CE-02, D-gen/5, F-02, N-05, I-05

²⁹⁴ For general comparison between England and mainland European planning trends see, for example, Almond, (1993) Batley (1991) Berry (1995) Bosworth (1993) Cheshire (1989) Healey (1994) Kramer (1995) Masser (1995) Nadin (1995) Newman (1996) Syrett (1993) Williams (1993)

²⁹⁵ In particular see tables 3, 4 and 5, chapter 2.

appeals procedure. However, these differences may not be so great. As an Italian researcher advised, *"The big groups (of contractors & developers) have direct contacts with regional staff and can determine their policies. This also happens at local level."* (I-gen/AB/3). Whatever, given the empirical evidence in Chapters 6 - 11, it is more likely that continental authorities actually pursued more independent policy lines than suggested by the literature. The issue here then, is which, if any, level of government makes the best guardian of local community interests if the 'rules' fail to protect them.

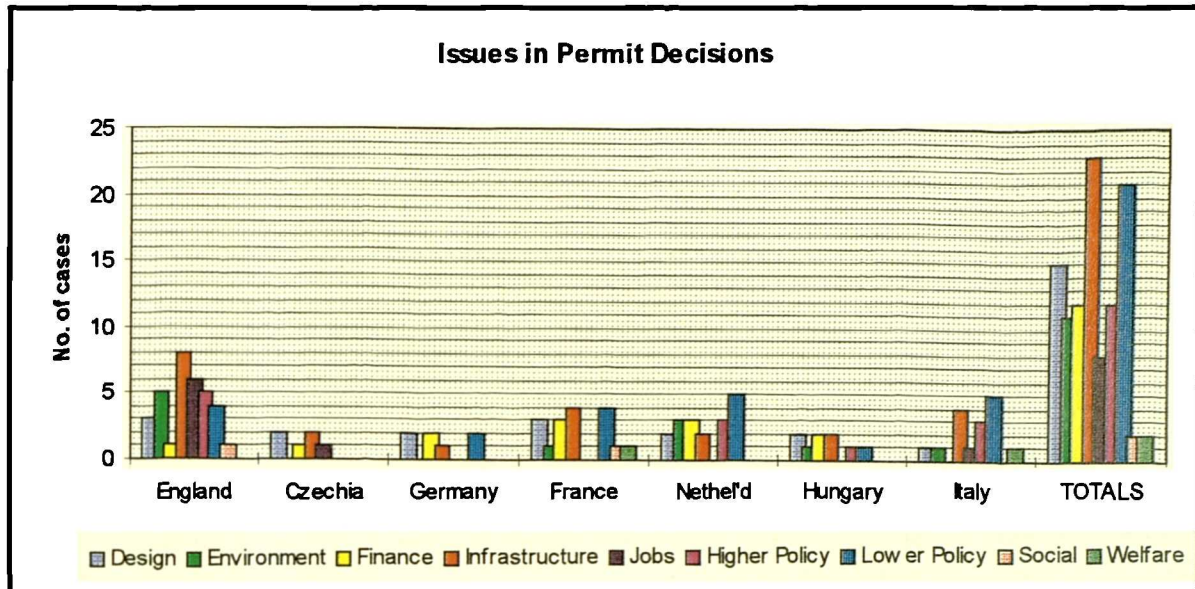


Chart 15 Issues found to be involved in permit decision making by country & total

Infrastructure Finance

Supporting the findings under *Site Types* (13.3), the most common issue influencing land-use change decisions appeared to be infrastructure (Chart 15). Present in 22/32 cases (69%), this seems fairly evenly distributed. Likewise, the importance of road and traffic considerations was evidenced both where they altered the character of the land and where developers and end users would not have proceeded without alterations to enable sufficient volumes of traffic to access the new developments. The associated availability of finance, for example to execute these (13.2), was over five times more evident on the continent than in England (57% -v- 9%). As noted (13.2), this could be because mainland authorities often provide all infrastructure, whereas in England this usually falls to the developer.

Finance Social Welfare

Whilst low everywhere, surprisingly neither finance nor social issues played a part in more than one English case, and welfare issues seemed completely absent in England, possibly due either to "the Thatcher years"²⁹⁶, or that the cases were of large private projects. This could be interpreted as supporting the observation that substantial landed and politically related interests were necessary in order to gain a voice in land allocation deliberations. This all suggests that, on the continent, local level government does not address the guardianship issue.

²⁹⁶ broadly the period between 1980 and 1990 when privatisation and private enterprise were promoted, local government budgets 'capped', and numerous efforts made to withdraw the (local) state from any area that could be run by private business.

Jobs ■ | **Social** ■ | **Welfare** ■

Peculiarly, while jobs figured as an issue in 55% of English cases, on the mainland they hardly rate (5%) (Chart 15). The near absence of social and welfare issues here may reflect this. Yet this does not gel with continental emphasis on *Competition and Promotion* or *Other Agenda's*, discussed under decision making motives (Ch.15). This may be because the continental approach to representation and municipal management (Ch.4) encouraged executives (e.g. mayors) to package objectives with image (city & personal) to secure (re)election. This may have masked individual issues, like jobs and amenities, within an overall theme. One example of this was case F-01 where 'image' and redevelopment objectives hid potential *brownfield* site problems (13.3) in preserving commercial relationships & options.

Design ■ | **Environmental** ■

Design appeared twice as important on the mainland as in England (48% -v- 27%), even though, as a German building officer advised, "*Everything is permitted if 'Lieschen Muller er vert nicht schlecht' ... if it doesn't make the average, educated, non expert sick.*" This may be because design figured in negotiated applications rather than decision considerations and/or because of greater direct involvement by mainland municipalities in development. The reverse is true for environmental concern (33% -v- 45%), inferring that economic considerations are paramount in most permit decision processes.

14.3 Other pressures

Chart 16 shows a number of other pressures found to be present in permit decision processes. Discussed in order of appearance, except where 2 categories are combined, overall these emphasise the exclusive 'deal making' nature of permit decision processes, at the expense of less powerful interests.

14.3.1 Private Work ■

Concern to attract or obtain contracts (as distinct from 'jobs'), either by the municipality, developers, or professional practitioners was a small but noticeable 27% in England. There, and supporting the notion that professionals may encourage change, rather than plan implementation (14.1), one professional planning consultant saw himself as a '*mercenary trouble-shooter, finding the loopholes in frameworks*' (E-08/3). Although small, overall the presence of 'private work' as a factor may be significant. This could, for example, reflect either a shortage of work generally or a trend to contingency related fee or payment systems, or both. It is also possible that such a trend could have been masked by different types of working relationship in other countries, something which may have been true for municipal departments as well as developers and professional practitioners.

This emphasises the issue, for mainland systems, of 'who protects the (legal, local) plan?'

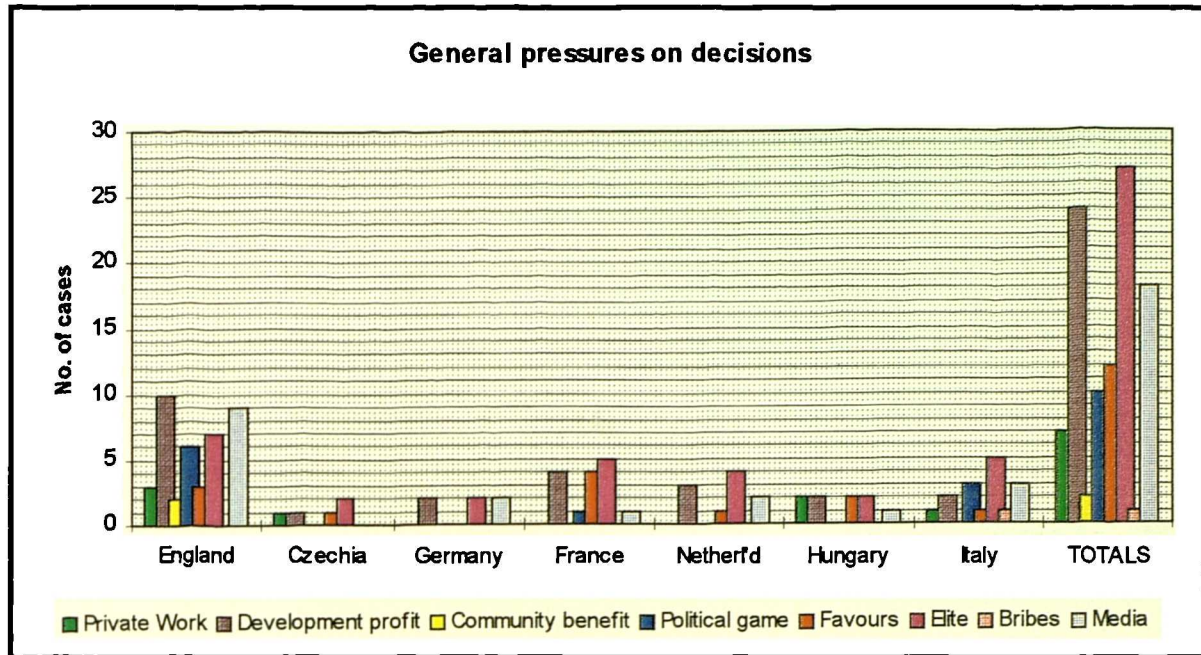


Chart 16 *General pressures on decisions by country and total*

14.3.2 Development Profits

Present in 91% of English cases, 'profit' was seen as more influential there than on the continent, where it rated only 58%. Although primarily important to applicants, it was also significant to municipalities when benefits were expected to flow to them from the development, for example via planning gain, or its equivalents.

However, direct profit from the development process may not be the over-arching English consideration. For example, retail market share and potential to profit from this in operation were the main concerns in Superstore E-05 and the Cinema E-06. Furthermore, while in case E-01 development profits (resulting from UDC subsidy) influenced the initial promoters' application and dealings for the hotel (E-01), it was also the prospect of operational profits, market share and image which actually drove the scheme forward. Likewise the MerBen promoter of E-02 was concerned primarily not with development profits, although these were important, but with profits from use of the new premises.

Nevertheless, in England, development gain or betterment did appear to play an important part in bringing land forward. It was this which lay behind the 20 year old arrangements between the landowner and the house-builders in E-03, the owner's site assembly for re-development in E-04, and the innovation, speculation, twin track applications, and wholesale removal in cases E-06, E-07, E-08, E-09, E-10 & E-11. All of these were possible because planning committees were "... *not strongly controlled in the area of development control and (adapted) political ideology to the circumstances.*" (E-05/2, Ward Councillor).

On the mainland, the importance of profits may have been less clear for three reasons. First, because

'planning gain'²⁹⁷ is effectively institutionalised (see Benfield 1991); second, because some municipalities may have been more involved in actual developments than their English counterparts, so sharing more directly in development profits; third, because the greater certainty afforded to mainland developers, via collaborative practices, required lower risk and less speculation. Additionally, the notion of 'profit' sometimes holds bad connotations in England. It is possible that this has more of an unspoken acceptance in other cultures. As one French Maire confided "*Corrupt networks are set up by political parties and the money goes into their pockets not the persons. 'Les noirs'*²⁹⁸ are often involved in this and frequently approach me." (F-02/5).

Thus, for example, susceptibility to, what in England, may be referred to as 'slush funds', may be less of an issue on the continent where, as a German politician advised, "... the public say 'Why not? - They've done it forever'. There is no public sensitivity about this. Even when scandals are published in the press they just say 'Thanks for letting us know.', but there is no real concern. The ruling elite are like local princes." (D-gen/52)

14.3.3 Local community benefits

Despite wider concern for profits and 'work', these did not appear to influence planning for local communities. Only two English cases (18%) evidenced attempts to get benefits out of projects for the local community (E-07; E-10). In the rest of Europe they seemed to be ignored. This supports the findings derived from the combined decision matrix (16.2). As a German Green Party councillor observed "*Various crises created by planning have led politicians and public to have no faith in planning. Therefore they are prepared to override planning in pursuit of policy goals.*" (D-Gen/49).

So, despite, or possibly because of the 'rules', local level politicians are not guardians of the plan.

14.3.4 Political games

Reflecting the perception that planning is more political in England (14.1 & Ch.16), the view that party political games may exert an influence on decisions was found in 56% of English cases compared with only 19% for other countries. It is possible that awareness of the potential for this, and thus the ability to seek it out, was greater in the English RA's than on the mainland. However, given the inter-disciplinary nature of the team and the direction provided, any such difference was minimised. Consequently three related implications can be drawn from this finding. First, that because the continental systems notionally 'protect all interests equally', personal influence may be able to secure 'something extra'. As the director of a Dutch development company explained, "*Developers rely on having something that is supposedly 'not possible'. They need development gain.*" (H-D). Second, that because interests are so 'protected', there is no need for mainland local politicians to have as much contact with and/or concern for local community interests. Third, this encourages the

²⁹⁷ The securing of some benefit, like road improvement or social amenity, by a municipality from a developer under a formal contract as a condition of planning permission being granted. In the UK this is officially supposed to be directly related to the development concerned.

thought that they may only do so if they can gain personally from involvement with community interests (16.5).

The personal interests of (informal) decision influencers thus seemed very much to the fore in mainland permit decision processes.

14.3.5 Favours & bribes

Although bribes were observed in only one, Italian, case, consonant with 14.3.5, the possibility that favours influence planning decisions occurred in all countries; 27% in England and 43% on the continent. This is significant in that it permits of the possibility that systems may be subverted for improper purposes by those who are party to, or can influence, the permit decision. In this respect, perhaps one of the most telling comments was made by the principal of a French surveying practice, speaking of a small developer, *"He doesn't handle enough money to be asked for donations. He's out of the corrupt system."*

14.3.6 Elites & the media

In 84% of all cases permit decisions were seen as influenced by an elite group, i.e. the decision process was only accessible by a very small and select number of people. Consistent with other observations, e.g. 14.1, this finding seems more prevalent in mainland countries (95%) than in England (64%). As a German developer put it *"Power resides in the old boy network."* (D-01/6). Thus the composition of these elites which, apparently so easily and frequently, subvert regulatory systems with impunity, as distinct from all the actors involved, and any differences in their composition between countries, is an important consideration. As possible candidates, Figure 63, p.254, compares a range of mainland and English actors and agencies. Grouped in probable importance these may also be related back to the hybrid decision models (15.3.4). (Chart shading is merely to aid reading).

| KEY ACTOR COMPARISON | |
|------------------------------------|----------------------------------|
| Mainland | England |
| Professional advisor/s (Arch/Eng.) | Chief Planning Officers |
| Political leaders | Professional Advisors (Planners, |
| Developers | Engs. {traffic}, Lawyers, |
| Land Owners | Surveyors) |
| Building Department Head | Developers |
| Senior Planning Officer | Land owners |
| Financial Agencies | Political leaders |
| Other Department Heads | Planning Officers |
| Statutory Consultees | |
| Regional Government | |
| Building/technical office | Other Departmental Heads |
| Other private advisors/consultants | Statutory Consultees |

Figure 63 Importance of Actors & Agencies in the decision process

Conversely the influence of the media appeared to be more marked in England, being seen in 82% of cases as against 43% on the continent. As noted in 14.1, this may be connected with the perception

²⁹⁸ Usually refers to (descendants of) colonial émigrés returning to France, e.g. from Algeria.

that continental systems are supposed to protect third-party, etc., interests. Although the research did

| Factors ranked by region | | | | | | | | | | | | | | |
|-------------------------------------|-------------|---------------|--------------------|------|------|------|------------|-------------|--------------|-----------|------------|---------------|------------------------|----------------------|
| Ave Weight all cases > Factors √ | Av Engld | Rank Engld | Av. wt. by country | | | | Mld Ttl | Av. Mnld | Rank Mnld | Av. CE | Rank CE | Ttl Ave Wt | Av wt all 3 regions | Rank by Ttl Av Wt |
| Negot'n based process | 1.83 | 3 | 1.80 | 2.50 | 2.00 | 1.80 | 8.10 | 2.03 | 4 | 2.75 | 2 | 6.61 | 2.20 | 1 |
| Rule manipulation | 2.00 | 2 | 1.40 | 3.00 | 2.20 | 2.40 | 9.00 | 2.25 | 1 | 2.00 | 9 | 6.25 | 2.08 | 2 |
| Image promotion | 1.50 | 10 | 1.00 | 1.50 | 1.80 | 2.20 | 6.50 | 1.63 | 10 | 3.00 | 1 | 6.13 | 2.04 | 3 |
| Rules over-riden | 1.33 | 16 | 1.40 | 2.50 | 2.20 | 2.00 | 8.10 | 2.03 | 4 | 2.25 | 5 | 5.61 | 1.87 | 4 |
| Pre-negotiation | 1.67 | 7 | 2.00 | 1.50 | 1.20 | 1.00 | 5.70 | 1.43 | 16 | 2.50 | 4 | 5.60 | 1.87 | 5 |
| Long process of change | 1.17 | 21 | 1.00 | 3.00 | 1.60 | 2.60 | 8.20 | 2.05 | 3 | 2.25 | 5 | 5.47 | 1.82 | 6 |
| Rule & policy conflicts | 1.17 | 21 | 2.40 | 2.00 | 2.00 | 2.20 | 8.60 | 2.15 | 2 | 2.00 | 9 | 5.32 | 1.77 | 7 |
| Town plan out of date | 2.17 | 1 | 1.20 | 1.50 | 2.40 | 1.40 | 6.50 | 1.63 | 10 | 1.50 | 14 | 5.30 | 1.77 | 8 |
| Corporate driven | 1.50 | 10 | 1.60 | 1.50 | 2.60 | 1.20 | 6.90 | 1.73 | 8 | 2.00 | 9 | 5.23 | 1.74 | 9 |
| Investment interests | 0.33 | 37 | 1.80 | 1.50 | 2.40 | 1.20 | 6.90 | 1.73 | 9 | 2.75 | 2 | 4.81 | 1.60 | 10 |
| Individual driven | 1.50 | 10 | 0.00 | 1.00 | 1.00 | 2.60 | 4.60 | 1.15 | 20 | 2.00 | 9 | 4.65 | 1.55 | 11 |
| Other agendas | 1.67 | 7 | 1.40 | 1.50 | 1.40 | 1.60 | 5.90 | 1.48 | 15 | 1.50 | 14 | 4.65 | 1.55 | 12 |
| 'Deal' arranged | 1.00 | 26 | 1.60 | 1.50 | 1.40 | 1.80 | 6.30 | 1.58 | 14 | 2.00 | 9 | 4.58 | 1.53 | 13 |
| Covert process | 1.83 | 3 | 0.80 | 1.50 | 2.60 | 1.60 | 6.50 | 1.63 | 10 | 1.00 | 23 | 4.46 | 1.49 | 14 |
| Policy issues | 0.83 | 28 | 1.60 | 1.50 | 2.20 | 2.20 | 7.50 | 1.88 | 6 | 1.50 | 14 | 4.21 | 1.40 | 15 |
| Policy based process | 1.33 | 16 | 2.20 | 1.50 | 1.60 | 1.80 | 7.10 | 1.78 | 7 | 1.00 | 23 | 4.11 | 1.37 | 16 |
| Societal change | 1.17 | 21 | 0.40 | 1.50 | 1.40 | 1.80 | 5.10 | 1.28 | 18 | 1.50 | 14 | 3.95 | 1.32 | 17 |
| Market pressures | 1.33 | 16 | 1.80 | 2.00 | 1.00 | 1.60 | 6.40 | 1.60 | 13 | 1.00 | 23 | 3.93 | 1.31 | 18 |
| Infrastructure change | 1.00 | 26 | 0.60 | 1.00 | 0.60 | 0.40 | 2.60 | 0.65 | 25 | 2.25 | 5 | 3.90 | 1.30 | 19 |
| Economic issues | 0.67 | 30 | 1.20 | 0.50 | 1.20 | 0.60 | 3.50 | 0.88 | 22 | 2.25 | 5 | 3.80 | 1.27 | 20 |
| Lobbying | 1.83 | 3 | 0.80 | 1.50 | 1.80 | 0.60 | 4.70 | 1.18 | 19 | 0.50 | 27 | 3.51 | 1.17 | 21 |
| Developer tactics/rules | 1.50 | 10 | 1.00 | 2.00 | 2.40 | 0.20 | 5.60 | 1.40 | 17 | 0.50 | 27 | 3.40 | 1.13 | 22 |
| Private interests | 1.50 | 10 | 0.00 | 0.00 | 1.40 | 1.20 | 2.60 | 0.65 | 27 | 1.25 | 20 | 3.40 | 1.13 | 23 |
| Regeneration pressures | 1.83 | 3 | 0.20 | 2.50 | 0.40 | 1.00 | 4.10 | 1.03 | 21 | 0.25 | 33 | 3.11 | 1.04 | 24 |
| Institutional driven | 1.17 | 21 | 0.60 | 0.00 | 0.40 | 0.20 | 1.20 | 0.30 | 36 | 1.50 | 14 | 2.97 | 0.99 | 25 |
| Speculation | 1.17 | 21 | 0.40 | 1.00 | 1.00 | 0.20 | 2.60 | 0.65 | 25 | 0.50 | 27 | 2.32 | 0.77 | 26 |
| Post negotiation | 0.50 | 32 | 0.20 | 1.00 | 0.00 | 0.80 | 2.00 | 0.50 | 32 | 1.25 | 20 | 2.25 | 0.75 | 27 |
| Planning gain | 0.50 | 32 | 0.00 | 0.00 | 0.40 | 0.40 | 0.80 | 0.20 | 39 | 1.50 | 14 | 2.20 | 0.73 | 28 |
| Political pressures /el'n | 1.67 | 7 | 0.00 | 0.50 | 1.00 | 0.60 | 2.10 | 0.53 | 31 | 0.00 | 39 | 2.20 | 0.73 | 29 |
| Local rules followed | 0.33 | 37 | 0.80 | 0.50 | 0.40 | 0.60 | 2.30 | 0.58 | 29 | 1.25 | 20 | 2.16 | 0.72 | 30 |
| Appeal proc. important | 1.33 | 16 | 0.80 | 0.00 | 0.80 | 0.20 | 1.80 | 0.45 | 34 | 0.25 | 33 | 2.03 | 0.68 | 31 |
| Political interests | 1.33 | 16 | 0.20 | 0.00 | 0.20 | 0.60 | 1.00 | 0.25 | 37 | 0.25 | 33 | 1.83 | 0.61 | 32 |
| Rules frame process | 0.50 | 32 | 1.20 | 0.50 | 0.80 | 0.80 | 3.30 | 0.83 | 23 | 0.50 | 27 | 1.83 | 0.61 | 33 |
| Media influence | 0.67 | 30 | 0.40 | 1.50 | 0.60 | 0.00 | 2.50 | 0.63 | 28 | 0.50 | 27 | 1.80 | 0.60 | 34 |
| Political issues | 1.50 | 10 | 0.40 | 0.00 | 0.40 | 0.20 | 1.00 | 0.25 | 37 | 0.00 | 39 | 1.75 | 0.58 | 35 |
| Technological change | 0.83 | 28 | 0.20 | 1.50 | 0.40 | 0.60 | 2.70 | 0.68 | 24 | 0.00 | 39 | 1.31 | 0.50 | 36 |
| Corruption | 0.33 | 37 | 0.20 | 0.00 | 1.00 | 1.00 | 2.20 | 0.55 | 30 | 0.50 | 27 | 1.38 | 0.46 | 37 |
| Cmmnty interest/benefit | 0.33 | 37 | 0.20 | 0.00 | 0.20 | 0.20 | 0.60 | 0.15 | 41 | 0.75 | 26 | 1.23 | 0.41 | 38 |
| Jobs | 0.50 | 32 | 0.20 | 0.00 | 0.40 | 0.20 | 0.80 | 0.20 | 39 | 0.25 | 33 | 0.95 | 0.32 | 39 |
| Transparent process | 0.50 | 32 | 0.20 | 0.00 | 0.40 | 0.00 | 0.60 | 0.15 | 41 | 0.25 | 33 | 0.90 | 0.30 | 40 |
| Plan & rule based proc. | 0.00 | 43 | 0.80 | 0.00 | 0.60 | 0.60 | 2.00 | 0.50 | 32 | 0.25 | 33 | 0.75 | 0.25 | 41 |
| Environmental issues | 0.33 | 37 | 0.80 | 0.50 | 0.00 | 0.20 | 1.50 | 0.38 | 35 | 0.00 | 39 | 0.71 | 0.24 | 42 |
| Planning issues | 0.17 | 42 | 0.20 | 0.00 | 0.20 | 0.00 | 0.40 | 0.10 | 43 | 0.00 | 39 | 0.27 | 0.09 | 43 |
| Plans followed | 0.00 | 43 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 | 44 | 0.00 | 39 | 0.00 | 0.00 | 44 |

Legend: E = England; N = Netherlands; G = Germany; I = Italy; F = France; CE = Central Europe

Figure 64 Factors influencing case decisions ranked by region and total

not enquire into media importance for, or effect on, decisions, it did appear to sway the opinions of councillors, e.g. E-05, or even whole communities, e.g. I-02. In this respect the media may indeed be

Macaulay's 'fourth estate'²⁹⁹, but whether or not they act as guardians of either plans or local community interests rather depends on who controls both them and the information provided to them. Again, as the German councillor remarked, "*The major parties have very close and long standing ties with the press and can influence what is published.*" (D-gen/52)

14.4 Comparison by ranked factors

Detailed comments on the ranked factors influencing each case have already been made for each country (Ch.5-11). However, the overall rankings, collected and re-ranked by region and total in Figure 64, p.255, which encapsulates these observations, also provide further insights. Interestingly, while individually other factors may have been more important influences than 'negotiation' in each country 'block' (items boxed on table), collectively they resulted in its pre-eminence (last column). This suggests that if, for example, town plans had not been out of date, then, as corporate and investment interests vied to promote 'image', the conflicts between rules and policies which led to the manipulation and overriding of rules, might have been more constrained. This is reflected by the total lack of importance given to plan conformance and the nominal influence of environmental and other planning issues seen at the other end of the scale. Perhaps if the decision making process had been more transparent (15.4), then politicians might have paid greater attention to *due process*, technological change, community interests and corruption. The mid-range influence given to economic, market and social change factors perhaps also support the observation that 'policy' issues have become somewhat *ad hoc* in response to speculation, regeneration and infrastructure impacts, rather than being concerned with certainty and the protection of 'equity' (Ch.15).

14.5 Theorisation - the balancing of Interests

Finance, Government and Professional interests dominate permit application and decision processes, in that order. Via ever complex and inaccessible legislation they control commercial viability, profit opportunity, public information, benefits and jobs in order to create a mutually favourable public image. However, the interests of the general public lack power and position, save for their rather amorphous expression via the ballot box and custom. Figure 65, p.257, illustrates these relationships.

In this, personal interests and agendas appear to take precedence over municipal affairs, strongly influencing the parameters of group decision making. Seemingly more powerful than altruistic civic mindedness, they are less resistant to secrecy and, in certain circumstances, may even encourage this.

What seems fairly clear is that unless financial interests are able to secure a major part of the monetary spoils, then any 'desirable' project is unlikely to be implemented. This applies after the municipality has extracted anything which amounts to planning gain, after political parties have secured their dues and after high ranking individuals have received their incentives. If the scheme is a success then the promoters and developers are equally as able to secure 'image' benefits as the city. Should it re-

²⁹⁹ Lord Macaulay (1800-59), "The gallery in which the reporters sit has become a fourth estate of the

sult directly or indirectly in improved amenities for the local and general citizenry, then it may be claimed that everyone has gained materially. But whether even this distribution is equitable is another matter. Although not considered in detail, the indications are that it is not.

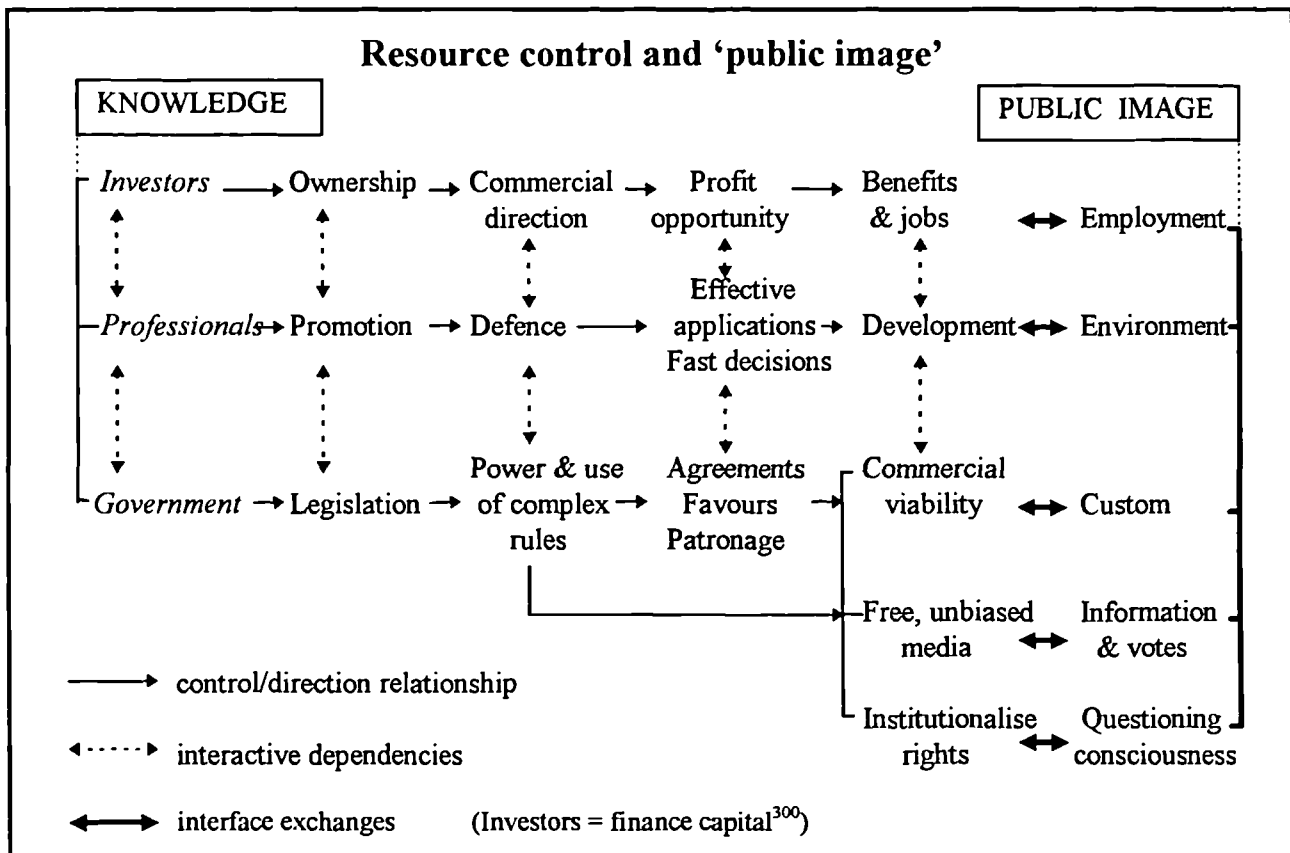


Figure 65 Relationships between interests controlling resources and 'public image'

14.5.1 Spatial -v- commercial concerns

Beyond references to the 'public interest' and suggestions of (dubiously) official widespread concern over qualities of local environments, formal information on the influences behind European planning decisions is thin, although jobs do seem to outweigh other concerns. Maybe this should be expected for, as Hall (1972, 26) points out, the implicit focus of post war planning was on improvements in economic allocation. Planning was supposed to make for more efficient, that is more economical, use of resources and so (sic) "*the achievement of a high rate of economic growth.*"

While English cities were '*contained physically but not functionally*' (Simmie 1993, 3) this was perhaps more true for mainland municipalities with 'blue print' plans. In England this 'extra territorial' functionality led to the formation of regional policy groups and an increase in direct contact with Brussels to by-pass Westminster (Murray 1991; Nadin, Shaw, and Westlake 1995). But a form of *de facto* regionalism, related more to 'city regions' than the state and which fractures³⁰¹ state centralism,

realm." *Essay, Edinburgh Review, 1843, vol.1, 'Hallam'*

³⁰⁰ finance capital encompasses loans, equity and re-investment of profits (which increases shareholder equity)

³⁰¹ As Haughton (1995,1) "*The fracturing of local governance in England and its selective re-composition in favour of private sector interests is exercising a profound influence on the way in which local economic development is conducted.*"

may already be in progress across Europe. As Berry (1995) notes, continental planning systems are gradually shifting their focus toward a more integrated approach which promotes economic development, environmental quality and social integration within the context of urban regions. However, the evidence presented here suggests that, since economic issues are retaining - even strengthening - their importance, this occurs only when non economic factors are given economic value.

This appears to be because land-use management is increasingly linked to the economic efficiency and viability of a city, its social value system and its environmental aspirations (Mega 1992). To project the right competitive image, urban entrepreneurialism activates markets based on supply (production) rather than demand (consumption) (Berry and McGreal 1995, 4).

Clearly land-use is now seen by government as both an investment-attracting factor and an urban added value generator rather than an indicator of social equity and environmental quality. Even so, continental land markets still seem less 'free' or 'speculative' than those in England. This may in part be because, as found in all but four³⁰² of the twenty-one mainland cases, municipalities retain a strong interest in land management and any betterment derived from the land conversion process. This may also account for why mainland decisions appeared more involved in, and concerned with, development outputs than those in England. For instance, whilst the intermediate wholesale activity³⁰³ of Dutch authorities in assembling and servicing land remain almost legendary, mechanisms also exist in most mainland countries for municipal involvement where servicing is required, e.g. French ZAC's. In Germany municipalities are actually required to execute these works (Downie 1993). Although there was some evidence of trading in permits³⁰⁴, in general property markets seemed development output centred, helping to understand why most discussion of continental markets revolves around built property, rather than land³⁰⁵.

Thus, as Needham (1993) observes of the Netherlands, "...prices for urban land are influenced much more by public involvement than are prices for rural land." (although Dutch public agencies also intervene in rural areas). Aided no doubt by the legal nature of local plans (Williams, Wood, and Linn 1991)³⁰⁶, in effect this shifts the focus of profits from the land to the development itself. Indeed, evidence from this research is that betterment value is often attributed at the plan making stage and

³⁰² D-02, H-01, I-01, N-02

³⁰³ i.e. the purchase and assembly, servicing, planning, parcelling and re-sale of development sites.

³⁰⁴ e.g. cases C-02, D-01, F-02, N-02

³⁰⁵ see for example Downie (1993), Dieterich (1993/4)

³⁰⁶ In contrast, under the discretionary planning system which operates in Britain it is possible that almost any piece of land near an urban area could be given development permission. The absence of legally binding plans means that the development plan status is not a determinant of eventual permission. As a consequence much of the open land around major cities is owned by property companies and the values are commonly determined by the likelihood of obtaining planning permission in the short, medium or long term. With sound planning advice, much land owned in this way is eventually capable of realising development value. Research conducted before the property slump of the early 1990's indicates that profits from land banking form a major element of the profitability of the development industry. Some corporate take-overs were inspired by the ownership of land banks (Williams, Wood, and Linn 1991).

adjusted on grant of permit. This could make mainland contractors more important than developers.

In England the role of the State has been re-orientated to support rather than supplement the market in dealing with externalities and in providing a framework for infrastructural development, legal support and public sector financial provision (Thornley 1991). Mainland authorities may possibly now be as constrained, by finances as well as politics, as those in England, from exercising expropriation and other land acquisition powers. Continental evidence suggests that production interests use the changing situation to create opportunities for relatively hidden negotiations to convert land for market orientated development. Thus, under the banners of decentralisation and competition, mainland municipalities appear to be directly fulfilling the function of sustaining capitalist production and class interests. Conversely there is little to indicate that these shifts enable consumption interests to make any kind of effective use of plans. Although outside the remit of this research, since plans may constrain development opportunities, production interests may also seek to influence their formulation.

14.5.2 *Development rights*

Two important differences between English and Continental practice are apparent. These concern the key roles and cultures in the process. The first difference is that, arguably³⁰⁷, in England planners prepare guidance plans to reflect the policies of their political leaders. Varying degrees of consultation, even negotiation, with land owners may be involved during plan preparation, but they have no *legal rights* to development under the plan. When specific proposals come forward these planners mediate between political leaders/ policy and applicants or their advisors. On the Continent it seems, political leaders negotiate with and between landowners and multiple political (party) interests, as to what development *rights* will be accorded by the eventual legal plan, directing the plan maker³⁰⁸ accordingly. Subsequently these political leaders negotiate policy against specific sites with potential developer applicants, mediating this with the plan and related rules via their administrative officers. The second difference relates to this. English planners have an interest in and speak for the guidance plan as it reflects policy. But Continental politicians have an interest in the plan only as it represents negotiated agreements, development rights, and hence potential compensation. Their plan-maker is not party to this latter negotiation and no one speaks for the plan. In none of the cases considered did permit decisions seem either to consider the plan objectives or to consult the plan-makers. Accordingly, any original purpose or aims of the plan were lost. English planners follow a culture of mediation, using the plan as a point of flexible reference and even guidance, continental politicians pursue a culture of negotiation in which the plan may have little relevance and be ignored.

³⁰⁷ 'Arguably' because there are those who might claim that such plans reflect only planning principles, government guidance and professional rationalism.

³⁰⁸ On the continent the plan maker - possibly a 'big name' sub-contractor to impress the public and ease the path of acceptance (e.g. I/N-01, F-04, N-01), rather than a municipal officer or department - is usually an engineer or architect. These professions often have sole legal rights to make plans, 'planners' do not. Their profession is, by and large, not formally recognised as separate from the other two. For example, in Italy planners cannot take the *exami di stato* to make plans, only engineers and architects can do this.

14.5.3 *Power, knowledge and persuasion*

Powerful tools of persuasion and coercion are used by developers and politicians to convince both 'rule' controllers, i.e. administrative officers, and the public that the benefits of implementing development ideas outweigh disadvantages and should therefore override the rules. Agreements reached to do this before expensive, detailed applications are made, are easier to achieve when municipal interests, e.g. as property owners, can be incorporated and where everyone, including the controllers, are relatively ignorant of the letter and intent of the rules. In turn this enables the formality of technical standards to be used to help conceal evidence of plan changes, e.g. by avoiding technical challenges.

Despite notional public consultations, during the lengthy process of land's 'maturing circumstances' only key resource holders appear able substantially to influence the negotiations which determine its eventual use. Consequently, despite the intent of codified regulatory systems, the interests of those without voice at the bargaining table are increasingly seen as unprotected. By and large those with a voice choose to perform those actions which they think will promote their own interests (Coase 1988, 27). As one Italian informant put it:-

"It has been a normal game to transform agricultural land to development land with a pen whenever the right person was asking for his economic benefit." (I-B/DB)

It would seem that, as the RTPi observed in 1982³⁰⁹, if consumption interests are to constrain production interests, they too must enter the negotiative processes.

14.5.4 *Political dis-interest*

Although party political interests in decisions were found to be more or less equal on both sides of the Channel, they were surprisingly low. Individual planning and development applications may have received much interest from individual local politicians but, from the cases considered, they did not usually seem prone to local party politics anywhere. This occurred only when applications impinged on some greater policy issue. This reflects Vicari's (1990, 602-3) assertion based on US evidence that in Italy *"Local branches of... political parties, weak in the US context and permeated in any event by growth interests, support overall local development and have only trivial differences in their specific spatial programmes, typically they have no such programmes at all. As with the government and its bureaucracies, the parties thus do not play a countervailing role."*

In theory, individual politicians should serve the interests of their electorate. But in any application political interests seem tied to media interest via the opportunity for individual politicians to promote themselves as champions of public justice and fairness. Unfortunately, although benefiting personally from the publicity, seldom do they seem effective in such cause. Whilst, in the pursuit of the right 'image', permit decisions may be considerably influenced by development type, little regard seems to be paid to market factors. Instead of some 'invisible hand' directing private actions toward public

good, there is *"an invisible foot that leads private self-interest to kick the common good to pieces."* (Daly 1980).

14.5.5 'City Image'

Despite continental hierarchical planning structures which might attempt to mediate interests within plans, decisions on major private development applications subject all interests, including those of higher authorities, not to local community but to 'city image' interests. City image considerations suppress whatever runs counter to them. As Elkin (1974,125) found, the concerns of city government are *"...to administer for the whole community not with mediating differences within it."* Higher level continental interests appear to be treated in the same way³¹⁰. In contrast mechanisms in the English system (appeals, calling in, etc.) make it possible for the national interests to predominate, exacerbating the degree of conflict and intensity of central government intervention against local government in Britain which Stoker (1991, 8) found to be greater than elsewhere in Europe.

However, with decisions hardly influenced by 'material consideration'³¹¹ for local communities or the environment, what seems to be happening is that, faced with rapid change and with an eye on re-election, local politicians show increasing concern for municipal structural stability. Placed under severe financial constraints and given Europe's new 'culture of competition', they respond aggressively to both retain and capture whatever economic activity is available to their city. This gives private commercial interests increased power and influence over all related development decisions, especially if they can show some additional visible 'gain' to the city or its' leaders.

14.5.6 'Rules' -v- negotiation

Changes to plans and regulations are often driven by the need for money, either by politicians pursuing 'image' or party goals, or by business seeking profit opportunities. This makes plans, regulations and policy subservient to financial imperatives. Where funds arise from commercial activity rather than taxation, this gives businessmen the ability to direct politicians who direct their officers to effect agreed changes.

Thus, on the continent 'rights' to receive development permits do not seem to be an issue. In most of the major private projects investigated, they were obtained via negotiation rather than by reference to a pre-ordained plan. Yet neither did they seem illegal. Ways were found to make those adjustments necessary to legitimise the grant of permits (Ch..12). However, this did leave some actual developments in a peculiar non-legal situation; for instance when rules permitting a new development during a review of the local plan were used and then that 'review' was subsequently abandoned. In these cases legally issued permits led to developments which contravened the extant local plan³¹².

³⁰⁹ Cited in Healey (1983)

³¹⁰ e.g. N-01, N-02, D-02, F-05, I-02

³¹¹ as used in English planning considerations.

³¹² e.g. G-01, G-02

14.5.7 *Conclusions*

Planning and development control systems do not appear to resolve the fundamental conflicts between the private property rights enshrined in continental written constitutions and 'public interest' rights (3.3.1). This failure, it is believed, may lie at the root of planning's apparent lack of, or confused, 'purpose' (2.4.1; 2.5). Furthermore, as structural change has gathered pace across Europe, capital interests have succeeded in using their power and resources to convert the 'public interest' to serve their own private interest ends. In doing so the daunting, if not widely impenetrable complexity, of regulatory systems have contrived toward their own demise. Contrary to possible intent, they have enabled obfuscation, rather than transparency, and provided, if not promoted, routes to privilege and private profit in advance of 'equity'.

Application and Permit Decisions in land use conversion

Contrary to their perceived intent, regulatory planning decisions in mainland systems, as regards major private development projects, seem neither 'administered' nor enforced (Ch.3). In contrast such decisions over planning issues in England seem more entrusted to the discretionary judgement of planning officers. However, neglecting, wrongly using or interpreting, or simply ignoring, the 'rules', with low 'rule' respect and enforcement, is seen as the norm everywhere. Exceptionally, some English councillors still appear to think that the 'rules' are upheld and it does seem true that more attention is paid to them in England, where local authorities appear more concerned with technical standards in planning, plans and planning policies, than do continental municipalities. Indicative plans and directly related policy may also have more influence in England, although the Dutch show a similar tendency.

15.1 Decisions in practice

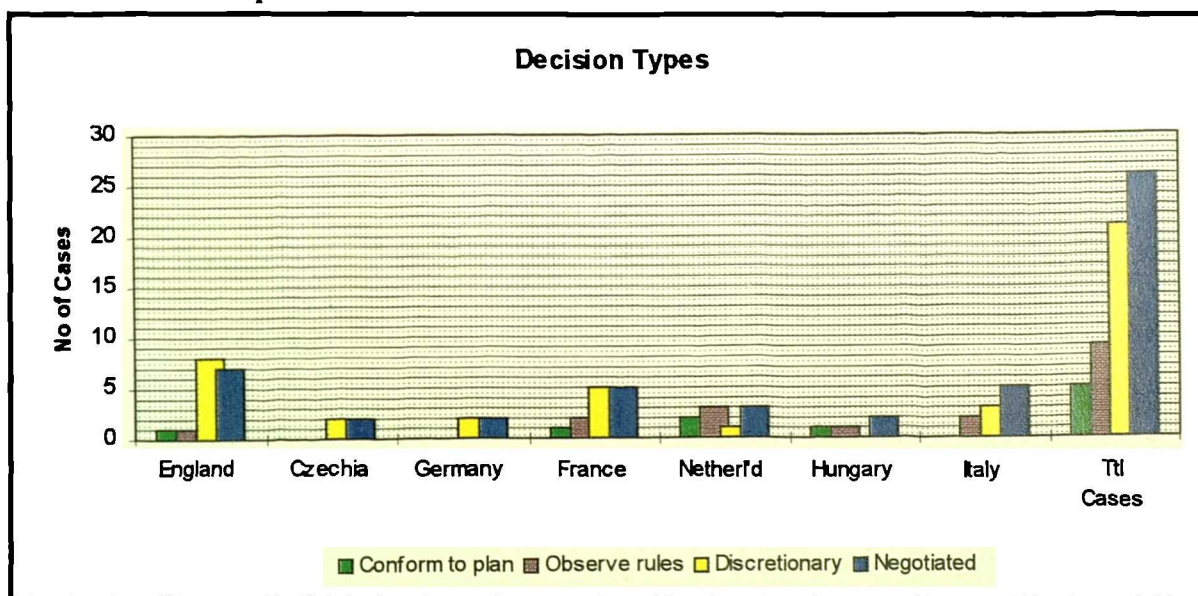


Chart 17 *Types of decisions found in practice by country and total*

It will be recalled that, in 4.3.1, idealised models were constructed for three rival permit decision-making scenarios. Chart 17, p.263, illustrates how these were reflected in practice, 'plan' and other 'rule' observance being separated into two categories. As will be seen, only 5/32 permits observed the plans existing prior to the development idea (4.7) - just 16% of cases. Of these only 3/21 were

MEU cases. Furthermore, in total only 11/32 cases seemed to have followed any formal 'rules', of which 8/21 were on the mainland. Instead, discretionary and negotiated processes predominated. This suggests that the policies under which plans and other 'rules' were made, were either perceived by the decision takers as redundant and/or made irrelevant for these decisions.

| Cases | Decision models | | | | | | | Number of Cases |
|----------------|------------------|-------------------|------------------------|------------|--------------------------|------------|-----------------------|-----------------|
| | Plan conformance | Plan + Policy Mix | Plan + Negotiation Mix | Policy led | Policy + Negotiation Mix | Negotiated | Hybrid Co-op / Coerce | |
| England | 1 | 1 | 0 | 2 | 3 | 6 | 0 | 11 |
| % of 11 | 9 | 9 | 0 | 18 | 27 | 55 | 0 | 100 |
| Netherland | 1 | 1 | 0 | 0 | 2 | 1 | 0 | 5 |
| Germany | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 2 |
| Italy | 0 | 0 | 0 | 1 | 3 | 1 | 2 | 5 |
| France | 0 | 0 | 0 | 0 | 2 | 3 | 5 | 5 |
| Ttl Main EU | 1 | 1 | 0 | 1 | 9 | 5 | 7 | 17 |
| % of 17 | 6 | 6 | 0 | 6 | 53 | 29 | 41 | 100 |
| Central Europe | 0 | 0 | 1 | 0 | 1 | 2 | 1 | 4 |
| % of 4 | 0 | 0 | 25 | 0 | 25 | 50 | 25 | 100 |
| TOTAL | 2 | 2 | 1 | 3 | 13 | 13 | 8 | 32 |
| % of 32 | 6 | 6 | 3 | 9 | 41 | 41 | 25 | 100 |

Figure 66 Summary of European decision making processes

Figure 66, p.264, sheds further light on this. Reassessing all thirty-two cases³¹³ into these more discrete categories, it shows that, far from the three simple, idealised decision making processes posited in (4.3.1), seven were identified in practice. Chart 18, p.266 presents this graphically. Although most decisions follow a mix rather than a single model, negotiation or deal making, present in 81% of all cases, is seen as the most important of these. On the continent it appeared in 90% of cases and in England 64% where, rather than following plans, the flexible, policy oriented system enabled - at least in theory - local planning authorities to use their discretion to 'balance interests' between applicants and all other parties with a stake in the development decision (Kivell 1993, 8). In fact, the policy model appeared exclusively in only two English cases. As in both MEU and CE 'blocks', the English system's 'norm' of policy led decisions was outweighed by the negotiation model. In the MEU 'block', where 9/17 cases combined negotiation with policy, the percentage incidence of this mix approaches double that in England. To help understand this the statement of a French administrative officer is of interest, "*Negotiations take place between developer and the Maire &/or his Adjoint/s (i.e. the executive team). Only after unofficial agreement is reached are drawings and applications prepared.*" (F-gen/MB).

From this it appears that, across all countries, current policies, as distinct from policies in plans - however derived - take precedence over plans and other 'rules' in forming the basis for negotiated permit decisions.

³¹³ This includes 5 English cases not presented in Ch.5, but which details can be found in Appendix 11, to the 27 already assessed against the 3 heuristic models of the application and decision process (Ch.4).

15.1.1 *Application and decision making processes*

In England applications for major developments were first broached to the planning officer and/or the CPO to discuss possibilities. Depending on the 'rules' decisions could then be negotiated between professional advisors and chief planning officers. On the continent, where, in the main, the concept of discretionary judgement is not acknowledged and agreement to grant a permit was negotiated in advance, these advisors were seen more in support of developer and land owner *negotiation*, which seemed highly influenced, if not controlled, by ruling politicians. This was not necessary in England. There, negotiation between developers/land owners and politicians appeared to ensue only when their 'generals' - the professional advisors and chief officers - were unable to agree issues of principle. Even then, such matters could be determined between developers and chief planners without involving politicians directly in the bargaining, the chief planner acting as his/her/their emissary. This involvement of politicians on the continent was so, even though mainland systems were supposed to avoid *negotiation* or indeed any form of interference by politicians. Indeed, the practice seemed more prevalent there (95%) than in England (64%), where the system is designed to enable it. Although not necessarily linked to an actor's position, the greater importance of actors over 'rules' also seemed greater on the continent (76%:63%) (8.14.8). Accordingly, instead of continental actors seeking guidance as to what conforms to the plan, three application routes seemed most common: the developer approached the politician responsible for development; the professional advisor approached the planning or building department head - whoever was perceived to carry most influence; or an approach was made to the technical department by either developer or advisor.

Depending on the importance of the project to the town, extensive negotiations then took place between any or all of these actors to agree what was to be done and the most efficacious procedures for implementing this decision. After negotiation, when permits had been pre-agreed, politicians directed their heads of department to resolve any conflicts which these had with the 'rules' in order that permits were given at least the semblance of conformity. Senior officials advised on how to achieve this and, if major departure from the 'rules' were involved, an officer could be appointed to oversee achievement of this, co-ordinating all relevant departments and consultants, including any higher level, e.g. regional or provincial approvals, and 'fielding' public/^{3rd} party objections, to arrange the change. Developers and other actors co-operated to 'play the game', adjusting applications and other data to facilitate these pre-agreed outcomes. Senior politicians stepped in to assist in this where necessary. This led to a range of actors being involved³¹⁴ which seems more extensive on the continent than in England, for example by the inclusion of the building (technical) officer and head of department. However, usually only those having land or politically related interests appear to have gained access or made inputs to these deliberations. Unless politically articulated (Healey et al. 1988) those

³¹⁴ building officers, planning officers, department heads, political leaders, land owners, developers, private professionals, third parties, ordinary politicians &/or community spokespersons.

without such interests were excluded as far as possible, with the objective of simplifying and shortening considerations, something which Cherry (1982) considered was well known in England.

15.1.2 Negotiation and bargaining supersedes the 'rules'

The vast majority of all decisions were either straight forward negotiation (41%), or a mix of policy and negotiation (41%). One Central European case, CE-01, was seen as a mix of plan conformance and negotiation, adding 3% more emphasis to the negotiation group. The general tendency away from plans and other 'rules' toward rule-free bargaining is more marked in the English cases. These incline toward straight negotiation rather than a (discretionary) policy/negotiation mixture (55%: 27%). In MEU countries almost the exact opposite is the case (29% : 53%).

However, everywhere, it seems, local authorities responded to change (13.1) via discretionary, negoti-

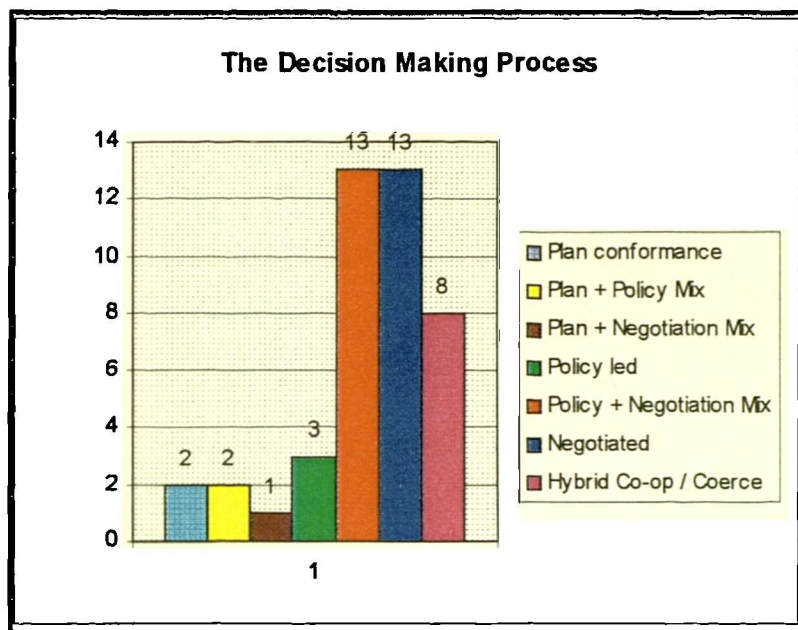


Chart 18 European decision making processes by category

ated development decisions. In doing so they brought a range of forces into play to modify formal systems, the over-riding tendency being for *negotiation*, in some form, to replace the implementation of predetermined blue print plans. These observations are supported by Figure 67, p.266, which collects the weightings given to each model in the case discussions (Ch. 5-11).

The suggestion here then, is that, in substitution for mainland rule-carried 'equity' (3.3.2; 3.4.1; 3.9), increasing reliance is being placed on continental politicians and officers to deliver this. However, they have no training or precedents, as found in England, for exercising this form of discretionary judgement and impartiality. Neither do they have the role of the strong higher power as in the UK. Whichever model predominates therefore - heuristic, mixture, or some hybrid variety - if this holds true generally, then it is questionable if any of the mainland planning systems

considered can deliver equitable land-use decisions, particularly since the English system is itself seen to be under stress in these respects.

| Case | Plan | Negotiate | Policy |
|-------------|------|-----------|--------|
| C. Europe | 1 | 9.7 | 1.3 |
| England | 1.5 | 12 | 4.5 |
| France | 0 | 5.5 | 4.5 |
| Germany | 0 | 3.5 | 2.5 |
| Italy | 0 | 7.5 | 6.5 |
| Netherlands | 2.5 | 5.5 | 5 |
| Totals | 5 | 43.7 | 24.3 |

Figure 67 Decision models and European practices

15.2 Policy, 'rules' and decisions

Driven by commercial rather than social criteria, overall the impression is that a policy-negotiation mix, rather than regulatory, approach to permit decisions is the norm (Figure 67). Change of planned use and reallocation of existing use appears fairly standard, affecting 1/3rd of all cases considered. On the mainland this appears to revolve around the promotion of image - both town and personal - with municipalities being more directly involved in development and more committed to its realisation than in England. As a French regional researcher observed "*Whilst the POS is important, it is influenced and directed by politics. In practice the system removes or renews the POS all the time, not just every 5 yrs.*" (F-gen/JCC) ³¹⁵.

The greater preference for virgin³¹⁶ site development exhibited in mainland Europe may be related to policies on infrastructure provision, the policy and practice there being for this to be the responsibility of municipalities rather than developers. With it often being considered less costly to develop green-field rather than brownfield sites, this could be a further reason for the absence of brownfield developments in the continental cases (13.3). Nevertheless, this view is moderated by the perceived importance and financial value to municipalities of some re-developments, evidenced by two French urban schemes (F-01, F-03), although policy regarding the quality of development is thin everywhere.

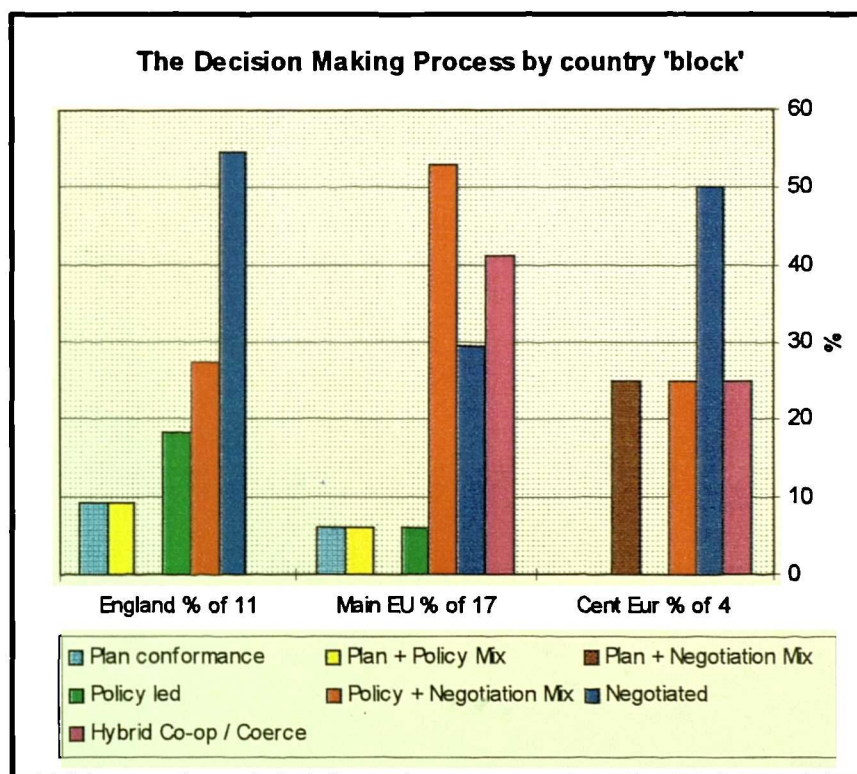


Chart 19 The decision making process by country 'block'

There is, of course, much more going on than just these simple differences and the standard and mixed process models identified. But, if typical, then by separating the country 'blocks' in Figure 66 as shown by Chart 19, p.267, it can be seen that the plan and directly related policy may have more influence in England than on the continent, where, it seems, such decisions

may take greater account of non land-use planning policies. This observation is supported by the clear emergence in Italy, France and Central Europe of new, hybrid decision making processes.

³¹⁵ Generally the POS should only be reviewed with each change in administration.

³¹⁶ i.e. development of formerly undeveloped land.

Given the collapse of former CE regimes, it is perhaps not surprising that they should compensate in this way for the apparent absence of current plans and directly related policies.

15.2.1 Rule coercion

A number of ways of coercing 'rules' in practice were identified. Chart 20 compares these with those cases where 'rules' were strictly enforced. Theoretically, continental concern for rule enforcement should be stronger than in England. In fact, from the few cases where this was observed at all, the reverse seems to be the case on a scale of 2:1 (4:1 if numbers of cases are extrapolated to be approximately equal). Breaches may not be quite as blatant everywhere as in Italy where, according to one architect *"Rules are not observed. In fact developers build first then get change of use to suit demand."* (I-gen/GI.33). Instead they seem tempered by a weak enforcement, observed in 19% of cases across the channel. itself countered by the 52% where 'rules' seem to be used wrongly or wrongly interpreted (29%). For example, as a French Maire, regarding regulations as freely interpretable changeable and modifiable, bluntly admits *"I manipulate the rules without scruple when they sound stupid to me"* (F-02/5). Because the English flexibility allows for this, no similar situations appear in the English cases where, rather than recognise the 'rules', 64% seemed simply to ignore them. On the mainland this was only 19%. As a German professor observes, reflecting the concern of this thesis for equity, *"All the rules are bent. That is not what is important. The important thing is that everyone should get equal treatment under them."* (D-gen/71). This does not appear to be the case

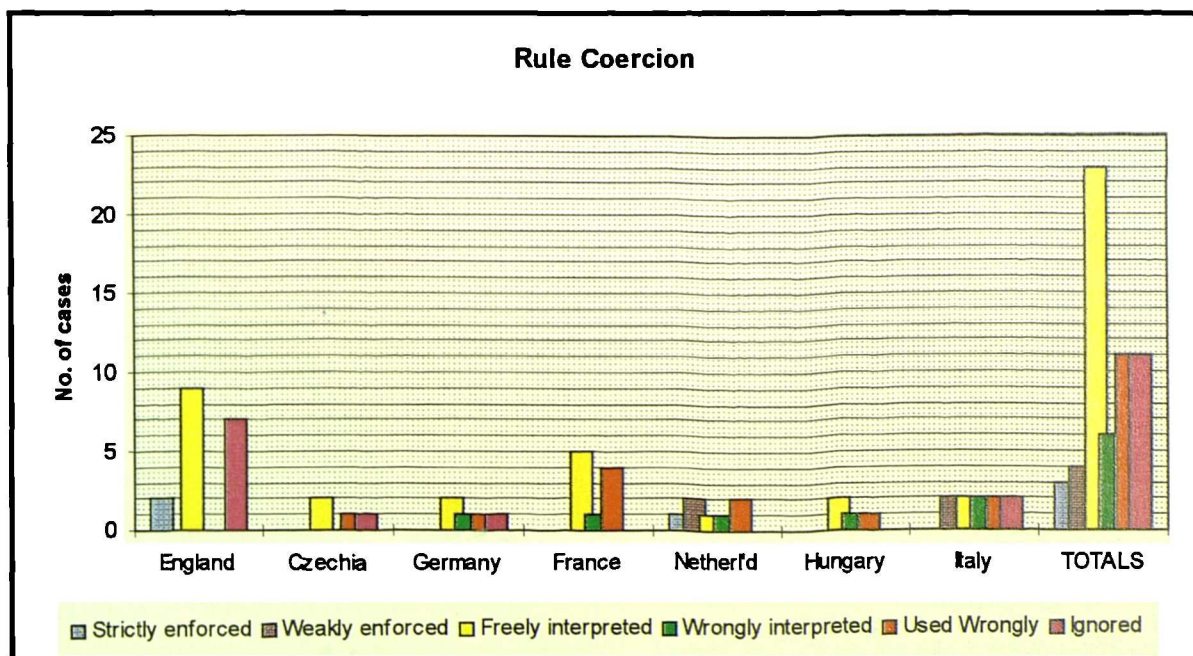


Chart 20 Different ways in which 'rules' are coerced in practice by country and total

15.3 Hybrid models of the decision process

Two very similar hybrid models seem to be emerging. Neither of them reflects the theory of how Continental European planning systems should operate. Both resemble what used to be the practice in England when municipalities had greater control of land and access to resources, and acted both as

regulator and developer, much as UDC's do today. However, lacking capacity to execute development directly, it seems that, eschewing transparency and 'equity', municipal resources are now effectively 'open to offers' in the bidding to attract whatever ventures will aid a town's other policies, even if these over-ride plans and planning policy. This echoes current English 'opportunity site' plan designations, e.g. E-06, which are open invitations to negotiate for whatever development is commercially viable and, in *sotto voce* form, replicates what may be happening in Italy. These 'hybrids' are:-

- a) the *municipal entrepreneurial model* (Diagram 6), in which, as with the French and CE cases, all 'rules' are used to secure the governing power's development ends.
- b) the *rule co-optation model* (Diagram 7), where, as with the Italian cases, it is the private developer's ends which are secured by the system, the implication being that reverse co-optation occurs as commerce enlists both politicians and bureaucrats for its purposes.

In each model there are effectively 3 'black boxes' of negotiation:- within the administration (A), policy frameworks (B), and local government direction (C)³¹⁷. Proceedings within these generally remain confidential but are believed to vary from case to case.

15.3.1 Municipal Entrepreneurial Model

Here, the municipality (or UDC e.g. E-01) control plans, other 'rules', and land.

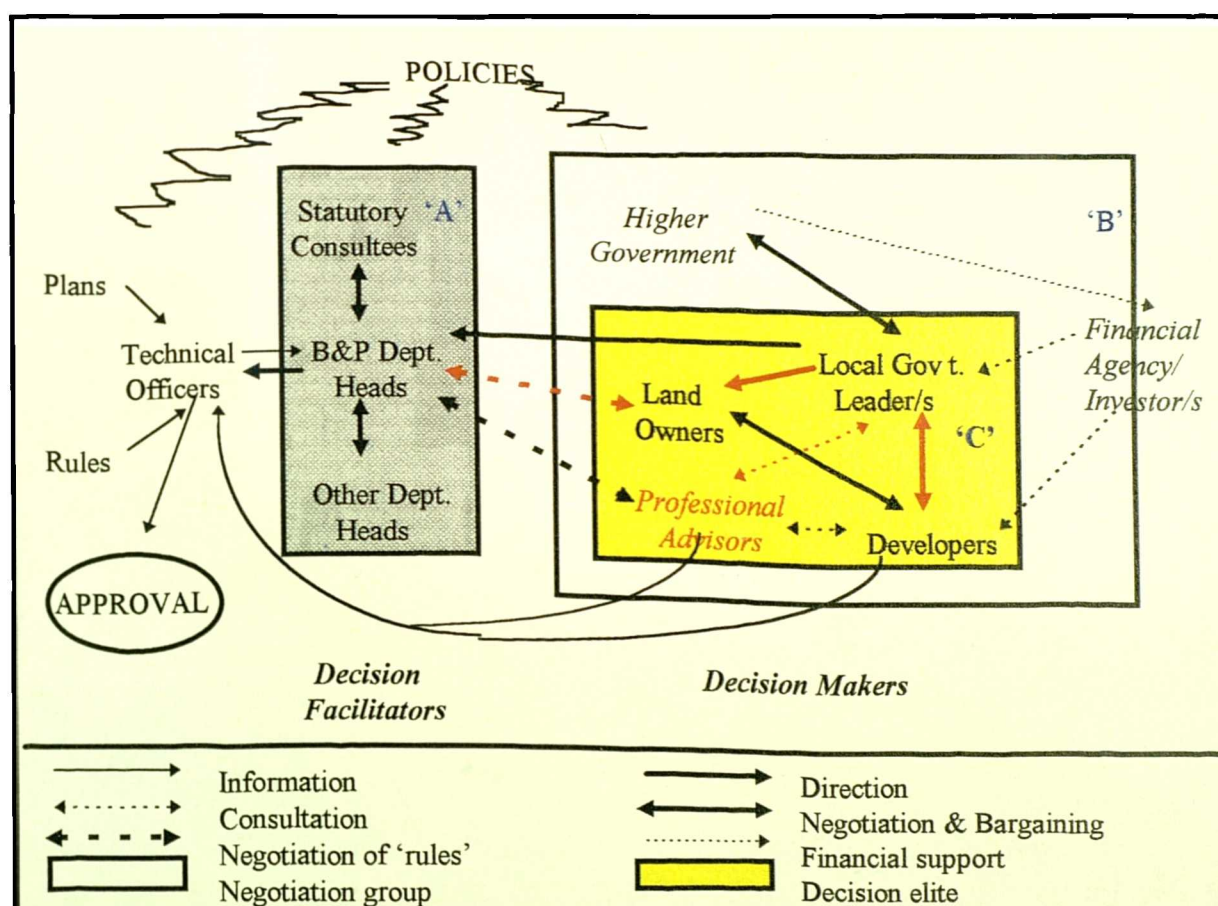


Diagram 6 *Municipal Entrepreneurial model of the land-use application decision process*

The political leader/s, or directors (e.g. the French *Maire*), determine physical development objectives and, using regulatory powers, either direct their land department to acquire the land (e.g. N-01) or

³¹⁷ This is not to suggest that private sector actors are formal actors within any of these.

exert control over its disposal (e.g. F-01, F-02). In consultation with professional advisors (or appointees, e.g. ZAC architect, F-04) negotiation ensues between them, developers and land owners, who form a decision making elite. This elite is supported by investors or financial agencies (e.g. case D-01), who may be inside or outside the negotiation 'black box', to realise these development objectives. Finance may be influenced by higher level government through grants, subsidies, and fiscal policy (e.g. D-02). Differences in policy and regulatory requirements between local and higher level government are then negotiated away (e.g. N-02). Meanwhile professional advisors and/or land departments are negotiating plans and other 'rules' with the building and planning department heads (e.g. CE-01). They are informed on the impact which these have on the development proposal by technical officers, and similarly negotiate these with statutory consultees and heads of other departments (e.g. N-05). When most, if not all, 'adjustments' have been agreed and the method and route for achieving these determined (e.g. N-04), the developer (or advisor) submits a formal application and the local government leader/s direct the building department head on what action to take (e.g. F-03). When everything is in place to ensure that the permit 'conforms' to the 'rules', the technical officers are directed to issue the permit.

15.3.2 Rule Co-optation model

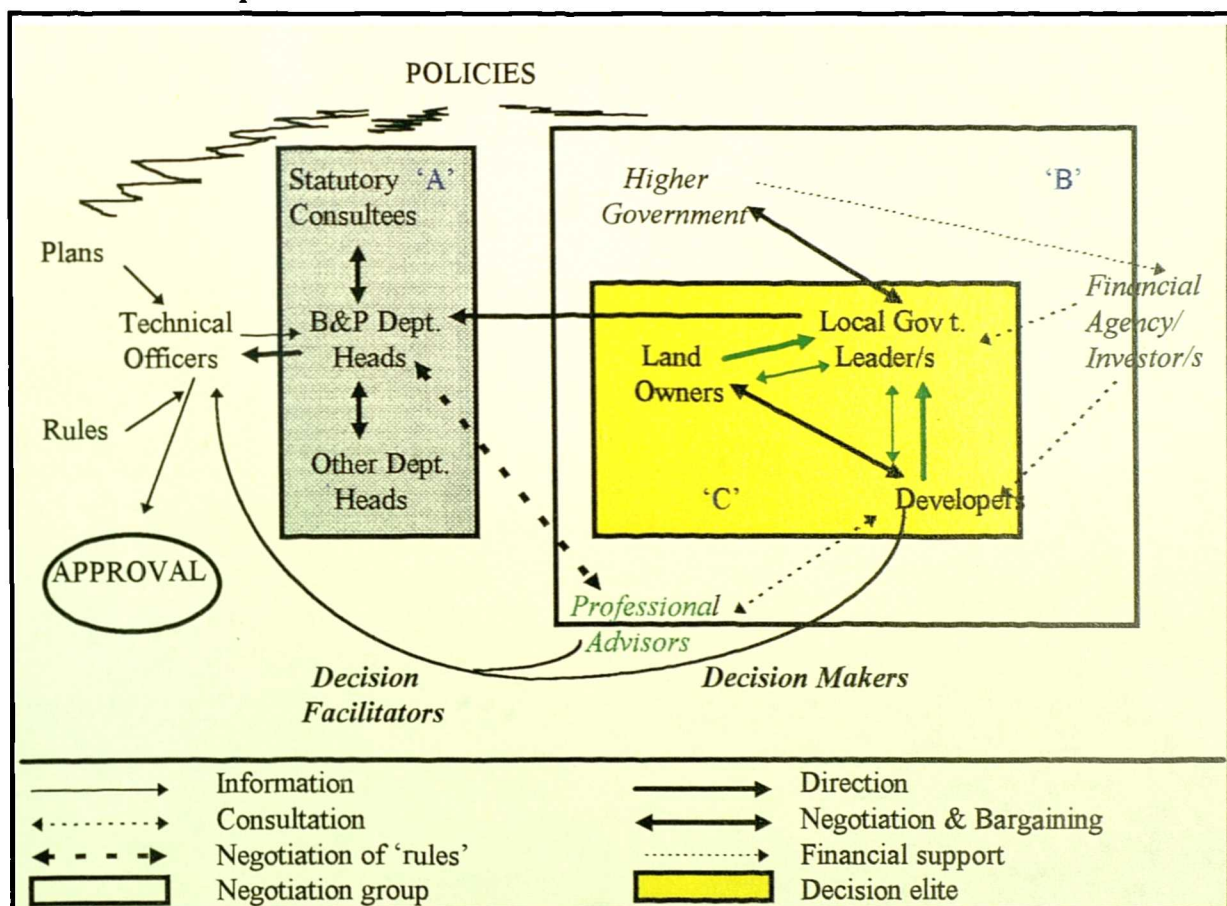


Diagram 7 Rule Co-optation model

Here local government still controls plans and other 'rules' but lacks land and other resources to achieve its leaders' goals. Thus the essential difference is the shift of power from municipality to land-

owners and developers. This places land owners and developers in a position where they are, to a degree, able to direct what development shall be undertaken - negotiating this to fit the leaders' goals (e.g. F-05). Professional advisors may now be either inside or outside the negotiation, although they usually remain outside (e.g. I-04) consulting now primarily with developers. With the loss of the link between municipal land departments and building and planning department heads, these professional advisors now become the main channel for negotiating the 'rules' (e.g. I-05). When the development 'deal' is agreed, the leaders direct the department heads, as before, thus enabling the landowners and developers effectively to co-opt the rules for their purposes.

15.3.3 Main differences between hybrid models

The small difference between these models is closely related to the power to control resources, especially land (14.5). Operational differences are highlighted by the coloured arrow links and coloured text on the diagrams, in which actors may be classified as *decision facilitators* or *decision makers*. In the *entrepreneurial* model, where the municipality has effective control over land, and hence developers, and the process is led by civic leaders, professional advisors are integral to local government direction. In the *co-optation* model, where land-owners and developers are more independent, the professional advisors are more peripheral to the setting of policy frameworks and the emphasis is much more on the 'deal' between key actors.

15.3.4 Hybrid models, site and development types

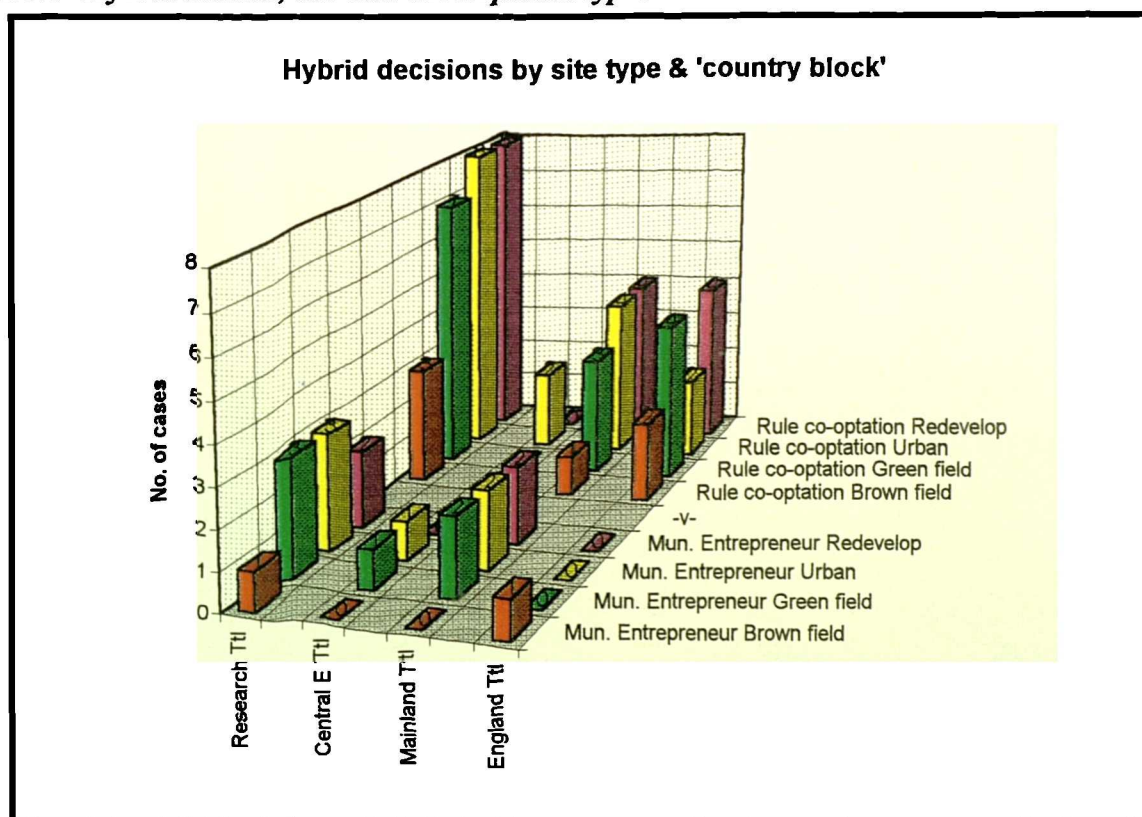


Chart 21 Cases summarised by hybrid decision model, site type and country

The thirty-two cases may now be re-analysed into these two hybrid models by country, site type & development type, as shown in Chart 21, p.271, and Chart 22, p.272, (Tables provided at Appendix

16). Total figures exceed case numbers due to more than one type of site or development being attributable to some cases.

Although allocation of cases to hybrid type is subjective, from these comparisons the indication is that mixed developments are effectively as important as pure residential and retail schemes. Although somewhat less so in MEU countries than in England, this contrasts with the clearly defined, 'zoned' uses anticipated from the literature. Given the earlier observation that end use market considerations are not that evident in residential schemes, an implication is that developers may provide the housing sought by municipalities to secure higher value permits to satisfy other market demands (13.2.1).

More importantly, in both site and development types, the *rule co-optation* model appears more important than the *municipal entrepreneurial* model overall. This holds true for all 'country blocks' where site types are concerned, but is less so for development types, where the *municipal entrepreneurial* model seems to favour leisure development in the MEU and CE. This suggests that, for the cases considered, control over land-use was held more by the private than state sector, leaning toward the *rule co-optation* model and closed circle, covert 'deal making' to suit the interests of a very small decision making elite.

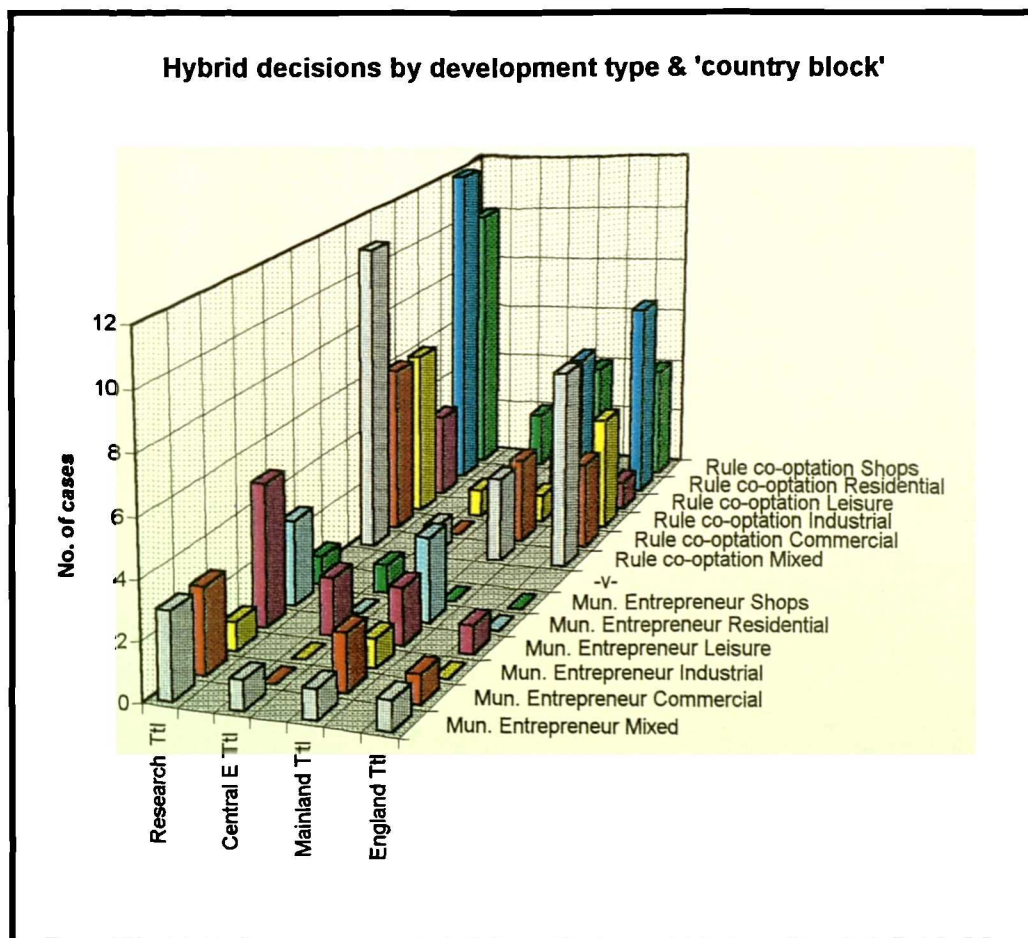


Chart 22 Cases summarised by hybrid decision, development type & region

15.4 Transparency and 'equity' in decisions

If *due process* and the open, legitimate use of power are supposed to protect equity, then one might expect greater transparency to result in an increase in this also. In fact, as illustrated by Chart 23, p.274, which collects data from the twenty-seven cases discussed in chapters 5-11, little correlation appears to exist between them. If anything, the extremes of these factors may suggest the reverse.

Reflecting the case discussions, the permit decision process is seen as being quite secretive and obscure. Where major private projects are concerned, it appears to apply the 'rules' in such a way as to protect and promote the interests of the decision making elite. In no case did transparency rate higher than 5/10, averaging only 2½, while equity ranged from 0/10 to 7/10, averaging 3½. This suggests an important observation - that the degree to which equity occurred could have been incidental to elite interests. If it happened to fit these well and good. If not, then it was of minor consequence.

As Figure 68, p.274, makes clear by collecting the data from chapters 5-11, on average England exhibits marginally higher transparency than MEU and CE countries, but 70% greater equity than the MEU. However, this is only slightly higher than in CE countries. Given the heavily negotiative style of CE decision making, this may reflect a carry-over in cultural (collective) values from their pre-velvet revolution systems and is consonant with the observation that equity may be incidental, made above. It could also reflect the pressure to act quickly to attract investment in the current situation.

The research did not set out to test the clarity of local policy, but various observations show this to be obscure in several respects. Four important reasons as to why this should be, suggest themselves:-

- First, via codification, the institutionalisation of citizens' rights may in itself enable policy 'rules' to be ignored and used to obscure practices more readily than in England.
- Second, the wide acceptance that little can be done against decisions made by the authorities under such 'rules' facilitates both 'official' contraventions and lack of clarity in implementing policies.
- Third, changes which permit a large number of mixed developments where, in accordance with established plans and plan making traditions, individual uses should be 'zoned', could suggest response to uncertainty and thereby lack of clarity in policy direction. However, it could also indicate the emergence of new, less specific modes of policy formation.
- Fourth, deliberate lack of clarity can provide flexibly and facilitate the manipulation of 'rules'. Such lack may be used in different ways by different actors and agencies to 'fudge' the 'rules', to provide flexibility in their interpretation, and to enable developments considered desirable, i.e. those serving the interests and responding to the influences noted above, to be permitted.

If these reasons hold true generally, then, from the other considerations discussed, the state may be seen as operating in the interests of the dominant class (Friedland, Piven, and Alford 1977), in which case full transparency and exposure would no doubt be likely to lead to opposition (Pickvance 1990)³¹⁸. Both observations support Lukes' (1974, p.24) view that power is the existence of differential social advantage as encoded in a given set of institutional practices and rules which systematically bias the operation and outcomes of the system in favour of some issues and against others. For ex-

³¹⁸ Pickvance argues that policy in support of accumulation or production needs to be concealed because it may generate political opposition, whereas the provision of services such as education, housing and social services will not.

ample, nowhere was any policy found which championed the environment. To the contrary, policies for environmental exploitation (e.g. E-08, N-01, F-02) appeared to take precedence over conservation.

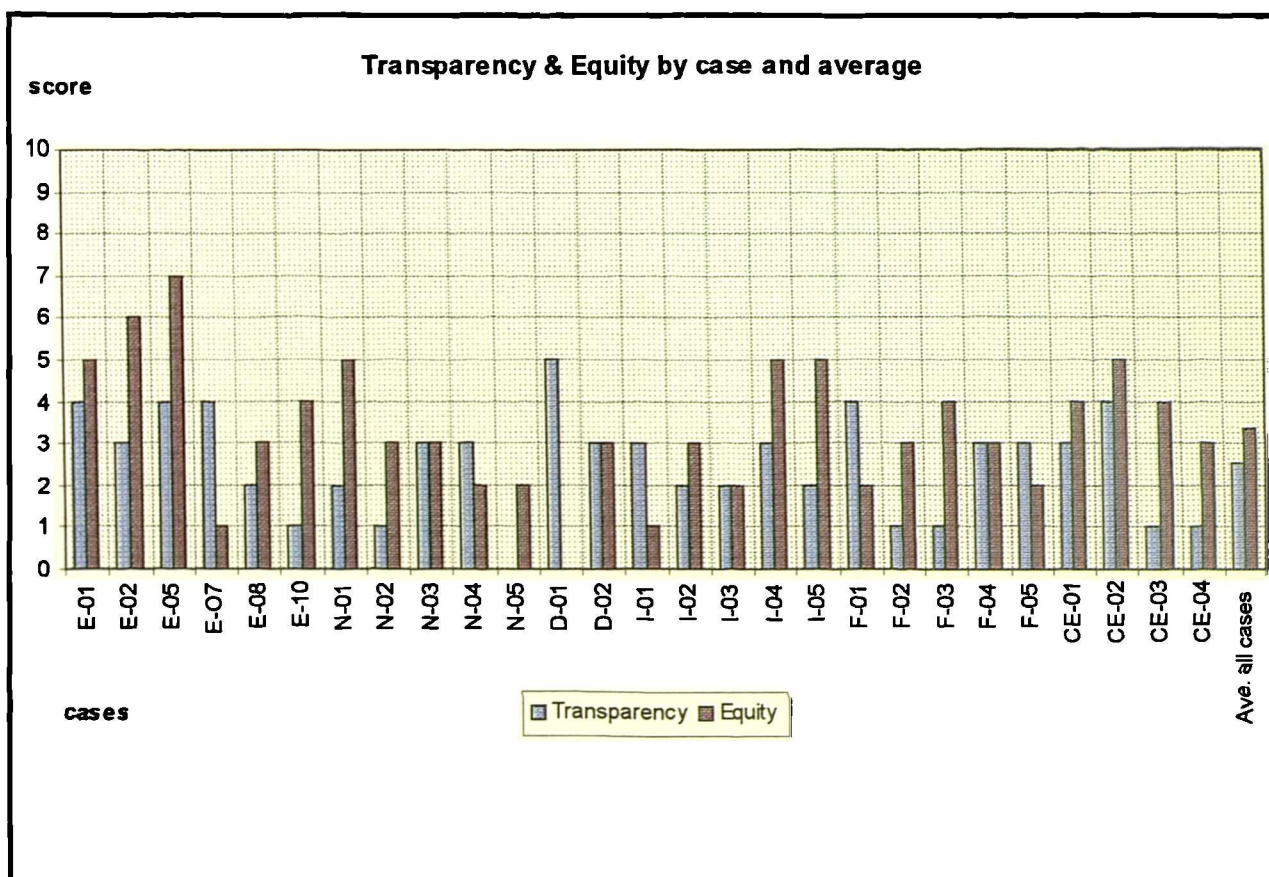


Chart 23 Transparency & Equity by case and overall average

15.4.1 Winners and Losers from permit decisions

| Country/region | Number of cases | Average Transparency | Average Equity |
|------------------|-----------------|----------------------|----------------|
| England | 6.00 | 3.00 | 4.33 |
| Netherlands | 5.00 | 1.80 | 3.00 |
| Germany | 2.00 | 4.00 | 1.50 |
| Italy | 5.00 | 2.40 | 3.20 |
| France | 5.00 | 2.40 | 2.40 |
| Mnld Eur. totals | 17.00 | 10.60 | 10.10 |
| Mnld Eur. Ave. | 4.25 | 2.65 | 2.53 |
| Central Europe | 4.00 | 2.25 | 4.00 |
| Total all cases | 27 | 68 | 90 |
| Ave. all cases | 4.5 | 2.52 | 3.33 |

Figure 68 Transparency & Equity by country & region

Deciding who benefits and who suffers from the way 'rules' are operated depends, of course, upon what may be considered a benefit, from whose perspective, and in relation to what issues. Here the concern is with those gains and losses which arise not only from the 'process' of operating the 'rules' - what treatment is meted out under 'due process' (1.3) - but with those impacts which flow both from this process and the grant of permits.

As reflected by Figure 68, p. 274, overall permit decisions are seen as being far from 'equitable' (1.3), although this is somewhat higher for the English 'block' than the mainland. Chart 24, p.276 & Chart 25, p.278, categorise those impacts emerging from the thirty-two cases as 'winners' and 'losers'. What is 'won' or 'lost' varies according to the type of interest held by and the perspective of the actor or agency concerned.

Thus, for a landowner or developer, for example, winning could provide the ability to respond to, and profit from, market opportunities without hindrance; losing could either deny this or present serious impediments to, or constraints on, these opportunities, like density and other development conditions, operational restrictions (e.g. E-05), and 'planning-gain' contributions. For a city or higher authority, 'winning' could mean increased capital and revenue income, attracting jobs, and 'improving' the city (regional) fabric; 'losing' might entail unwanted developments being imposed from above, non-budgeted infrastructure commitments, and detrimental impacts on the city's (region's) 'image'. Some of the ways a local community might 'win' are by securing environmental improvement, or even avoiding further environmental stress, by enhancing the quality of life for its members, e.g. reduced traffic, pollution, etc., by improving its long term 'community wealth' - its social as well as physical capital - and by gaining improved control over its own future. 'Loss' for such community could include the worsening or harming of any of these (e.g. I-01), unrewarding (in the sense of not affording some gain) imposition of unwanted development, and a sense of powerlessness. An individual might 'win' many similar things as all of the above, except that many of these could be very much more at the personal level. Further intangible benefits might also be involved, like personal standing, relationships and family futures. An individual's 'losses' could be the reverse of these, but also include loss of amenity, like a view, future 'harm and suffering', such as might arise from a 'bad' or undesirable neighbour, and physical or mental health impairment related to any of these.

While a degree of similitude naturally occurs between these comparisons, each classification supports the view that permit decisions of the type considered are far from balancing all interests 'equitably' in any of the case countries. Such 'balancing', it is argued here, demands that far greater weight be given to economic intangibles, with decisions addressing the very long term, not just current politically popular imperatives.

i) Winners

Members of the decision making elite, e.g. senior politicians ■, land owners ■, developers/ contractors ■ and their professional advisors ■ seemed to win most of the time. Attached to, if not forming part of, this elite, and lending weight to the latent possibility observed in several other categories, it is private professional advisors, the architects, engineers, lawyers, planners, etc., who seem to benefit most consistently from development control systems through the work and position which they gain. This was seen in 94% of cases overall, being effectively the same everywhere. Land owners closely followed this (88%), again in similar proportions on both sides of the Channel, likewise developers and contractors (78%). Given the basis upon and the manner in which these permit decisions were taken, this was, perhaps, inevitable. But if the alternate route to 'balancing' interests had been adopted, this need not have been the case. Indeed, a 'win-win' situation could have been possible.

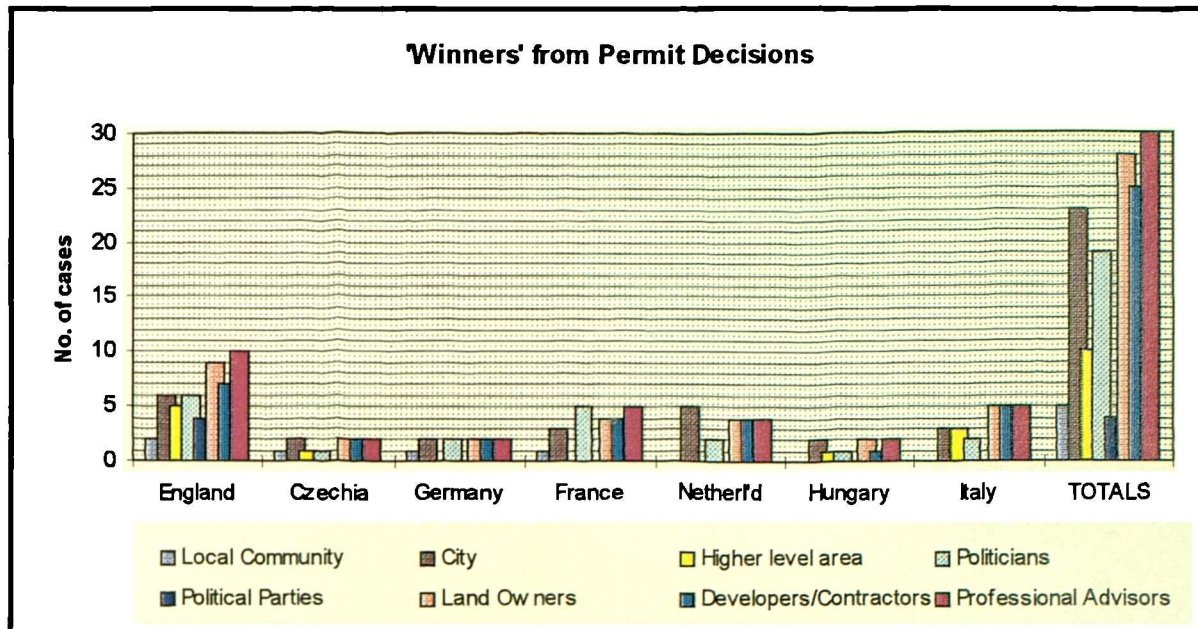


Chart 24 'Winners' from development permit decisions identified by country and total

Although it occurs in England too, the growing notion of 'cosy collusion' between continental actors and agencies who are 'business-friendly' in order to secure policy compliant negotiated developments, is encouraged.

Corporatism or 'Cosy collusion'?

"There have been several allegations of chairmen(of governmentally established bodies) having favoured certain people with contracts, but these had very low values and were very tightly controlled. One case concerned a QC who was investigated, appeared clean BUT left the next day. You need to have collusion to really subvert the system. BUT, how people specify the standards could be corrupting of principles. For example by over specifying the standards."

Director of UDC (E-01/4)

Illustration 3 The bounds of collusion

Local communities ■, those with a historical interest in local place, third-parties and individual citizens gained least from the way the 'rules' were applied. Indeed, while councillors may have tried to get benefits out of a project for the wider 'public interest' (e.g. E-05/1), local communities may be considered to have suffered from the way rules were handled, wherever they were. As an English chief planning officer, for example, complained, *"In general, open spaces are sacrificed far too easily, with councillors persuaded more by economic benefits of development."*(E-03/2). Indeed, to judge by the way neighbour, local community and other third-party objections were ignored practically everywhere, any attempts by councillors to champion the interests of their electorate generally had little or no effect. Maybe this was because they were excluded from the decision making elite, or because they were seldom sufficiently well versed to compete with the professionals involved, or both. But, win or lose for the community, politicians themselves still appeared to gain - from image, reputation and standing, if not financially (although there are some indications that this may have also occurred). This was almost the same everywhere (59%).

How politicians benefit

"(German) councillors set their own salaries and have a lot of possibilities regarding life style. Councillors are appointed to the boards of various local companies / organisations. Even I am on the board of the Spaarkasse³¹⁹. I attend 5 meetings a year and I get 300 Dm. per meeting. But it is impossible to make any judgements or contributions to the professional management of a bank. They are really social (food/drink) occasions. There are also various 'splendid' trips, 5 star hotels, etc. The Greens have tried to restrain such payments, etc.. But the public say "Why not? - They've done it for ever", etc.. There is no public sensitivity about this. Even when scandals are published in the press, then they say "thanks for letting us know", but there is no real concern. The ruling elite are like local princes."

German Green Party councillor and university lecturer (D-gen)

Illustration 4 How politicians benefit

This says little for the politicians who are *supposed* to represent their local communities, or for political parties ■, who were only seen as winners in the English cases (36%) and then only from a national, rather than local perspective. However, this does illustrate how major private developments provide the opportunity for a circus - an occasion for a great deal of show, display, noise making and letting off steam -while keeping the 'tricks of the trade' concealed from public view.

Indeed, cities ■, as corporate and wider community institutions, appeared to benefit rather more on the continent (81%) than in England (55%) even though English *"Planner's want something for nothing"* (E-05/1) and *"Local authorities are trying to obtain illegitimate planning gain."* (E-10/1). This may be because of the greater continental institutionalisation of what in England would be seen as 'planning gain', as well as different 'cultural' values (see *'rule coercion'*). Continental cities may also gain financially via their higher level of direct involvement in development projects (14.3.2). In contrast, higher level areas - and by default their governments - gained in 24% of mainland cases, about half the 45% seen in England (14.1, 14.2). This all supports the view that continental municipalities exercise greater direct powers than do their English counterparts.

ii) Losers

In only one case (E-09) did there appear to be no losers. Noted in 88% of cases, it seems that the 'rules' ■ themselves fared worst everywhere, frequently being shown to be ineffective. However, surprisingly English municipalities (64%) seemed, if anything, slightly more inclined to follow them than their continental cousins (90%). This reflects observations that 'rules' are perceived as lacking purpose, that land-use decisions do not respect them, and that economic motives inform such decisions rather than pre-determined plans.

Although party politics ■ was observed only in England, political parties gained rather less than individual politicians, and continental politics were seen as losing more than in England, due to growing public dissatisfaction with the way decision making processes are conducted, rather than party politicking. This may indicate one reason why land-use policies, where they existed, were so pliable, and why local communities seemed to come off worst in the benefit distribution stakes.

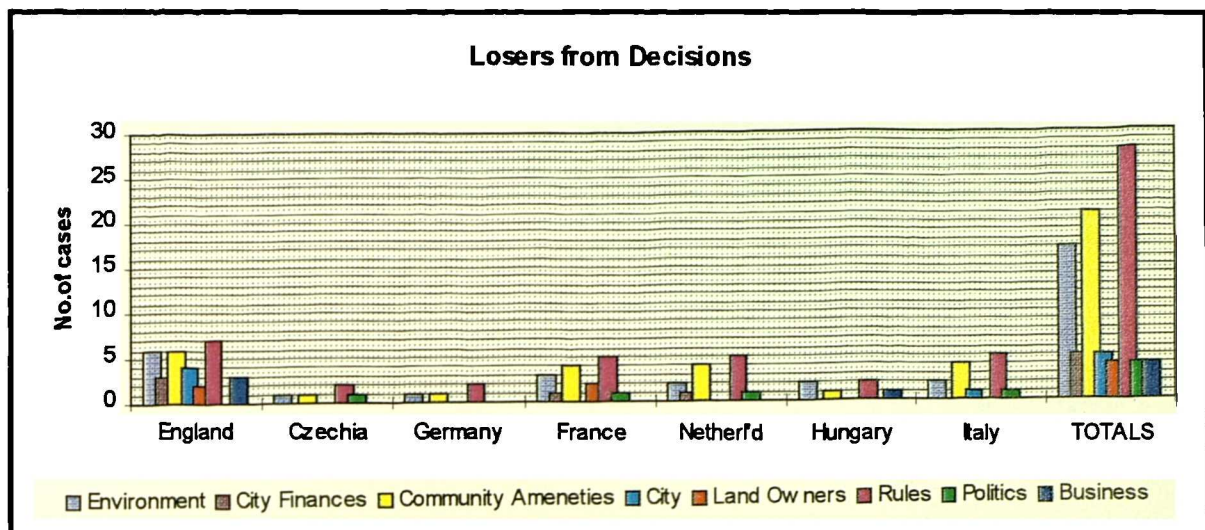


Chart 25 Identification of those who lose from permit decisions by country and total

The provision of local community amenities ■, like parks and other leisure facilities, also seemed less significant on the continent (71%), than in England (55%). Likewise environmental ■ concerns seemed to receive short shrift in such decisions. Environmental health, pollution, noise and the like were often ignored or demoted as decision criteria and environmental regulations were seen as “*the most flexible*” (E-08/4). In the words of a German researcher “*Environmental regulations are ignored - often secretly. It only becomes public when Green or citizen pressure make it possible*” (Degen/78). Overall, neglecting or ignoring such considerations was noted in 53% of cases, with effectively the same incidence on both sides of the Channel. This supports the observations (14.2) that environmental issues are poorly treated, but evens up the disparity between countries noted there.

Exclusion from the decision making elite, especially on the continent, can mean land owners ■ and businesses ■ losing out, particularly if their interests are not well represented (e.g. F-01). Whilst the incidence is low, it is surprising to find land-owners figuring as losers at all. Interestingly this was twice as noticeable in England (18%) as on the continent (10%). Likewise, as illustrated by the original promoter’s losses in E-01, and the SoSE’s refusal in E-02, business in general suffered six times more heavily in England (27%) than on the mainland (10%).

Although the incidence was low, without developer contributions, English city finances ■ appeared to suffer financially more than did their continental cousins (27% : 10%), possibly because of the way infrastructure and facility works were provided and financed there³²⁰. In England, if no *planning gain*, or developer contribution, was secured by the municipality then, unless falling under the remit of some alternate authority, e.g. county highways, water, other utility company, the cost of infrastructure and amenity provisions had to be borne by the city. This view of English cities ■ as losers in this respect was more than seven times higher (36%) than on the mainland (5%).

³¹⁹ Civic Bank

³²⁰ Continental practice is for municipalities to execute such works, charging property developers for this either through sale of serviced sites or by development imposts/taxes on development/issue of permits.

15.4.2 *The legitimacy of decisions*

In all the cases *due process* appeared to be under threat. Case evidence and expert opinion seemed in agreement. In all the countries considered, procedures surrounding the grant of development permits embraced a range of irregularities. Driven by change in circumstances, the unplanned re-allocation of land-use and redevelopment for alternative uses, appeared to be common practices. Everywhere, it seemed, this had become an elitist exercise. As noted above, Healey's (1995b) observation that the English decision process has become "*a well structured game, with developers consultants and planning officers well represented*", also held true in those continental countries considered. Marked by the manipulation of 'rules', the influence of other agendas, the overriding of conflicting policies, and the presence of corruption, this seemed more so on the mainland, where it also often appeared to be 'un-legal', if not actually illegitimate. Yet, generally with the exception of the closed elitist decision cadres, which remained a distinguishing continental feature, mainland and English decision processes appeared to be converging. This observation can be crystallised in 6 brief statements:-

1. Throughout mainland Europe, when permit decisions were being made for major private developments, the purpose of planning, plans, and related regulations appeared unclear to, and little understood by, most of the actors involved. This was less so in England, where planning professionals guided other actors.
2. In many cases, reference to out of date plans and an inability to adapt these to changing circumstances led to low plan conformance and land-use decisions not respecting these.
3. With the exception of technical standards, planning and development control 'rules' held little importance for decisions to grant permits for major commercial development projects, although they may have provided a reference framework for the decision process.
4. This meant that, contrary to the perceived intent of their systems (Ch.2,3), in MEU and CE countries, the planning 'rules' were neither administered nor enforced. Often, as in England, they were ignored or, alternatively, wrongly used or wrongly interpreted.
5. Most decisions did not follow a single model, but arose from a mixture of processes. Although more marked in MEU (59%) and CE countries (50%) than in England (36%), overall, upwards of 50% of cases displayed a mixture of decision processes. The main tendency was to mix *Policy* or *Discretionary* processes with *Negotiation* (15.1)
6. Many decisions seemed more heavily influenced by large scale economic, rather than local physical planning, considerations. There were indications that this may have been encouraging the emergence of hybrid forms of development permit decision making process in which local resources were effectively placed at the disposal of commercial enterprises in order to attract whatever ventures may have aided town and other policies. These may have embraced the personal objectives of civic and business leaders.

Expanding on the evaluative position noted in Chapter 1, it is argued here that planning systems and practitioners should have the role of 'stewarding' all natural resources in the long term interests of society. To do so it may be necessary for them not only to 'speak for them' impartially, but also to 'champion' environmental and/or local community interests. This does not necessarily mean that planning should take a position *against* commercial interests, merely that such interests should not 'win' over the environment and community by default; preferably that all should establish a 'common-cause' (17.1.1; 17.3). As has been a recurring theme throughout this thesis, this implies the need to re-appraise planning's values, beliefs and underlying *philosophy*. As discussed (2.4), lacking clear purpose of its own (15.4.1b), as in England, in practice planning does indeed seem to be being

increasingly used to pursue the interests of the powerful via informal, social procedures. Furthermore, if the evidence from the mainland is generalisable, on the mainland too these relationships appear to become more prevalent as the policy element of the 'rules' grows in importance in response to transient contemporary and future objectives (e.g. 15.3.1).

Keeble's (1983, 107,8) view, also previously discussed (3.8), that in England "*...nearly every planning application ..(is) ... an exercise in detailed development plan preparation.*", also seems true of the continent. But, whereas in England this is a legitimate practice, since the English system is designed for this, those on the mainland are not. One consequence of this convergence, therefore, is that as continental countries adopt English practices of taking *ad hoc* decisions (Keeble 1983; Lichfield and Darin-Drabkin 1980), they tread dangerously close to becoming illegitimate. To an extent this is reflected in those cases instanced where such decisions were taken to the administrative courts. That this did not happen in more cases may have been due to the sense of incapacity which, as often referred to - and possibly as a result of notionally institutionalised protections - seemed widely held. This may also be a reflection of culture, the "*... thanks for letting us know, but they've always done it...*" syndrome (14.3.2). But, and almost certainly, this owes much to over complex regulation and ignorance of this by most of the actors involved. Furthermore, this ignorance is combined with a capacity for keeping practices largely covert. Despite combination, whether or not any or all of these practices are synonymous, is unclear, but there has to be a strong suspicion that they may be.

15.5 Theorisation - planning by negotiated decisions

These research findings appear to challenge three widely accepted notions:-

- First, that continental style consensus decisions are preferable to English style majority decisions in that the former aim to avoid conflict and the latter may utilise adversarial 'combat' to seek out and address positional weakness. Aided by a tide of decentralisations, in post-war years mainland Europe's consensus approach toward such decision making³²¹ has, it would seem, been hijacked by elitist groups and used to ease acceptance of pre-negotiated permit agreements, thus further usurping *due process*.
- Second, that codified, rationalist, mainland planning systems *control* and *direct* development to deliver *equity*. Even if they ever did, this is no longer true. To suggest that they do is to mislead citizens to believe that the system protects their voice, their concerns and their interests in these decisions, even if they feel powerless to confront the actions of those in positions of power and (supposed³²²) authority.
- Third, that public plan presentations, consultations, etc. demonstrate open access, transparency and public participation in development decision-making. To the contrary, since most major development permit decisions³²³ appear to be individually negotiated, they illustrate that plans and other 'rules' provide at best a framework for negotiation, masking the reality that land-use allocation occurs at the *development moment*.

15.5.1 The entrepreneurial shift toward elite consensus

A generation ago in Bristol, England, Miller (1970) found that the 'key influentials' were local busi-

³²¹ (Brimont-Mackowiak 1994; Burns, Hambleton, and Hoggett 1994; Hull 1995; Nadin, Shaw, and Westlake 1995; Nizard 1975; Pickvance and Preteceille 1991)

³²² 'supposed' because, if those exercising this power do so in breach of the 'rules', then technically they may lose authority.

³²³ (Arvil 1967; Evans 1995; Ferris 1972; Hayward and Narkiewicz 1978; Healey 1983; Hoggett 1995; Lavers and Webster 1994; Schubert 1960; Simmie and French 1989; Simmie 1974, Bailey, 1995 #900; Skeffington 1969)

ness men, with development outcomes tending to favour local business interests and development companies at the expense of local residents. Just over a decade ago, Simmie (1981a) and Doak (1982) both showed that, in the UK, the power of corporatist organisations was directly reflected in the outcomes of development control decisions. More recently Healey *et al* (1988) have argued that English planning is biased in favour of certain powerful interests. Thus, in these respects mainland permit decisions appear very similar to those in England. With society being increasingly subject to a climate of commercial competition, politicians and professionals on both sides of the Channel seem to have aligned their interests with those of business. While England's regulatory frameworks may have been fractured (Healey 1995a), clear breaches have also appeared in the mainland's rigid, codified systems. In consequence, permit decisions in all the countries investigated now seem influenced more by considerations stemming from political and market, *qua* economic, factors, rather than predetermined plans and other 'rules'.

To judge from the research findings, Healey's (1993c, 92) contention that "...the (UK) planning system has increasingly taken the form of a negotiative process...", is also already the continental reality. Furthermore, Harvey's (1989) suggested switch from the managerial approach to governance, to one based upon urban entrepreneurialism, also appears to be already well rooted. Indeed, the competitive strategies which he felt would lead to such change³²⁴ now seem to provide the focus for most local permit decisions. However, instead of grand strategy directing land-use, it is the *ad hoc*, site by site, negotiative use of existing 'rules' for contemporary competitive purposes which is replacing planning's juxtaposed, confused objectives (2.4.1). At the same time, lack of distinctive policy terminology possibly also provides easier routes for amending land-use destinations. Additionally, with there being more ways to constrain land use decisions than by formal rules, in practice the shift from judicial to contractual forms of development control (Healey 1995a) seem as marked on the continent as in England. One example of this is the use made by English local authorities of planning principles to manage local property markets (Healey 1991a), while mainland municipalities show their concern for the supply and demand for property via a greater active involvement with permit implementation and actual development.

Differences also exist between English and continental practices, like the greater independence from higher government evidenced by continental authorities than those in England. Also, and paradoxically for a system that does not rely on them, it appears that both plans and directly related policy may now have greater influence in England than on the continent. If generally true, this may owe much to the capacity of, and authority given to, English professional planning officers to exercise

³²⁴ The four key competitive strategies engaged in urban entrepreneurialism entail competition over, first the international division of labour (attracting mobile investment and employment); second, the spatial division of consumption (tourism and consumerism); third, the acquisition of control and command functions in finance, government, information gathering and processing (securing high status activities, media and finan-

judgement over applications within their policy remit. This indicates another area of difference.

Whereas English planners are able to refer back to the objectives of plan makers, it appears that on the continent no one speaks for the plan's interests after it has been made.

Whatever the similarities or differences in process or theory, the net result of the changes made in practice is that the general presumption in favour of development openly expressed in England now seems the *de facto* reality on the mainland. To this end, municipalities often appear to act as facilitators, negotiating development, rather than prescribing or even proscribing this.

i) The undermining of due process

In England it still seems to be primarily LA planning officers who conduct such negotiations with developers or their representatives. While there are signs that senior politicians do become involved in these, this is usually from behind the scenes. However, on the mainland, and contrary to the 'rules' there, it was the political leaders who were found to be engaged in, or directing, the bargaining for development on behalf of their municipality. In this way they reached agreement direct with the applicants on what permits to grant.

In all the cases considered, access to this process appeared as a function of power. Only those holding one or more of the key resources needed for the project gained real access to the development control process. Only those necessary to the formal outcome, or holding essential interests had a voice in the decisions within this. Thus, possible parallels between English style mediation (Brindley, Rydin, and Stoker 1989; Healey et al. 1988) and mainland plan making and permit decisions, apply only in so far as mediation of these interests occurs inside these decision elites. Axiomatically, the more uni-centric the range of powers over resources (rules, ownership, finance, knowledge, etc.) the less the negotiation; the more plurality, the more the negotiation.

This means that, whether or not sanctioned in the name of more effectiveness or efficiency, the *due process* of providing access for those with little power embraced by the 'rules', like community interests, was violated. As Markovits (1988, 6) argues, in this sense it was the *process* of regulatory control which was more important than the content of regulations themselves. Such denial of *due process* offers background explanation for Batley's (1991, 49-50) observation that, regardless of efforts to improve public participation during the 1970's, local democracy is again emerging as an important European issue. And no wonder, since, as McAuslan (1980, 269) observed, the "... 'real' issues of planning and government that are masked by those who operate the present system are those of power and resources, who wields the former, who allocates the latter and to whom; who gains and who loses in the system?"

cial decision-makers); and finally, the redistribution of surpluses by central governments (transfer payments, health and education expenditure, etc.)

15.5.2 *Power, interests and equity*

Like all state interventions, planning, particularly as evidenced through the grant of development permits, should appear equitable and legitimate to all interests. *"It has to face all ways at once"* (Healey 1983, 261). However, as noted (15.5.1.a), rights of access to this closed circle, where actors not rules determine outcomes, depend on landed or political interests. Neither should surprise. Away from the glare of the circus ring, permit decisions everywhere seem forged on the anvil of profits by élites³²⁵ of property smiths. The distribution of urban resources and gains from land conversion rests firmly in their hands. Both they and the importance of representation inside each decision taking group, are clearly identified in the hybrid models of the decision process (15.3). Nevertheless, in general, European planning systems do not seem as robust in 'balancing' interests at the point of decision as does the English system.

Since position secures influence (Heidenheimer, Johnston, and LeVine 1989; Markovits and Silverstein 1988), those in a position to control land, policy, or rules are accorded this. Those without lack say and are often excluded in the interests of 'efficiency' and 'simplicity'. Widening the range of interests or issues, as *equity* might demand, adds 'unnecessary' complication - and may not be understood. In consequence it is interests, not issues, which shape planning decisions and key stakeholders who order these.

This may be because where plans, regulations and related systems lack clearly understood, agreed and respected aims and values, no basis exists for projects requiring change in these instruments to be assessed for their equitable content.

As Healey notes of UK practice:-

"...there is very little evidence of the political articulation of community needs in relation to land and development, except ideologically in the discussion at national level on the land value issue."

Healey (1983,256)

Thus the most dominant interests hold sway over decisions to permit change and push those less powerfully expressed, like aesthetics, the environment, disablement provision or third party objections into, at best, post permit consideration. Even then, the extent of both this consideration and any adjustments to the permit arising from this, including enforcement of any subsequent opposing decisions, depends upon their level of popular appeal and risk of discovery rather than fair, just, even-handed or impartial deliberation.

In fact, while access to all the systems considered seems restricted, in order to avoid interference with mainstream local policy and/or decisions, all provide 'ventilation'³²⁶ and other mechanisms to either

³²⁵ See for example Bottomore (1970), Mills (1959), Sorrels (1950), Michels (1966), Pareto (1963). Mosca (1960)

³²⁶ i.e. opportunities for objectors to voice their opinions and generally 'let off steam' to reduce pressure.

suppress opposition or divide this. Often, as in England³²⁷, these policies and decisions involve co-operation with private enterprise and, as noted above, take precedence over equity of voice or access. Thus, as in England (Simmie 1981b, 282-3), the level of corporate integration between private organisations and the state, as also evidenced in the hybrid decision models, is one of the more important characteristics of development control.

Promotion of 'image'³²⁸ and support for industry and commerce, are the main overt benefits derived, but, however small the incidence, as noted elsewhere (Benfield 1991), financial and other benefits in kind do accrue to political parties and persons³²⁹. Thus, continental institutionalisation of citizens' interests, property rights and betterment extraction seem merely to pave the way for potentially more insidious practices. Against this background, and also contrary to theory, continental systems do not avoid corruption.

i) The power of networks

In this, as evidenced by the research (e.g. D-01, CE-04, F-04, I-03), the power and influence of networks emerge as an important practical issue. These informal links make negotiations more possible, for example in bringing together joint venture consortia, in arranging who should win 'competitions', and in oiling the wheels to secure rapid approvals. Furthermore, with many actions depending upon secrecy, this is maintained by small, unofficial, high level group consultations, linked through informal channels, with the minimum of detail held on file. Key actors in this irregular process include the highest level elected administrative officials, selected departmental heads, investors and their prime advisors.

ii) The 'upper hand' of commerce

It is not just the rapidly growing culture of negotiation which determines the grant of permits, nor, of course, is negotiation itself only reserved for permit decision processes. In themselves these processes are merely the final step in a whole series of interactions, like creating the project 'team', bringing forward investors, obtaining council approval, determining design, etc., each of which involves negotiations. But within the decision process even that democracy which might be allowed inside negotiation itself is suspect, often falling under the apparent driving dominance of the mayor (or political leader). This relegates decision elites to addressing the second order sub issues of detail. Yet increasingly it seems that this apparent dominance may itself be becoming subservient to major commercial organisations. In the climate of MEU and global competition, to secure their 'image', their power base, their re-election; political leaders need to court such enterprises. As Newell (1995) points out in his consideration of the fossil fuel lobbies, *"Corporations now lead governments rather*

³²⁷ See for example Paddison (1993), Berry (1995), Adams (1994)

³²⁸ 'Image' covers both municipal - in terms of locational competition, and individual - in terms of status and electability.

³²⁹ The expert evidence given by both a German planner (Appendix 9) and an Italian developer (Appendix 10) support this.

than the other way around”.

15.5.3 The ‘Rules’ as a framework for negotiation

The findings reported here have further important implications. If, as appears the case, land-use conversion generally occurs incrementally at the micro rather than macro, strategic level, then the notion that mainland systems secure private and public interests over the long term, is a false premise. Since this notion appears to discourage the keeping of records, because if the ‘plan’ ensures pre-determined certainty there should be no countervailing considerations or need to record them, it also limits the ability to monitor change and develop planning knowledge, because ‘change’ is not allowed for by the system. To some degree, this may account for the widespread failure of officials and politicians to understand either planning principles, the bases of plans, or property and other market interactions. This means that clear land-use and related policies are either not available to, or not consistently applied in, permit decision making. And the combination of insufficient knowledge with policy deficiency results in *ad hoc* decisions to permit unplanned development, influenced more by municipal property and ‘image’ promotion interests than remote, unrealisable plans. Nevertheless such ‘rules’ for controlling the development process do have value - they provide municipalities both with the framework for negotiation and the coercive bargaining counters with which to negotiate their own circumvention.

This means that questions of equity, supposedly addressed on the continent when local plans are made, approved and given legal status, appear not just left to elitist whim, but to be surrendered along with the ‘rules’. Formal protections, so carefully built into codified regulation, including maladministration procedures, do not seem to secure community rights nor prevent non-conforming projects from proceeding. The use of appeal mechanisms, for example, by sectional interest groups, pressure groups and citizens to challenge either decisions or ‘game rules’, may sometimes cause inconvenience and delay to developers, but seldom seem successful (e.g. F-01). It therefore adds insult to injury when these same mechanisms are used by government and applicants to secure the fast route to ‘legality’ (e.g. I-03). Here similarities may be noted with English practices, albeit that different mechanisms are involved.

i) The complexity of policy and ‘rules’

In all the countries considered, as municipalities face the realities of ‘free market competition’, it seems that the informal processes of bargaining and negotiation increasingly substitute for formal systems. This informality may be influenced by funding structures, e.g. the degree to which municipalities are able to raise finance direct or have to rely on central government subvention, but the imperative of ‘city image’ to attract employers and ‘compete’ generally, provides a more impelling reason for the trend away from public interest policy considerations toward private and politically oriented interests. Contemporaneously, policies from a range of public sectors are also impacting on

land-use decisions.

This means that the breadth and depth of knowledge, technical expertise, capacity and time needed to address individual development applications, excludes many people from taking part. Increasingly this complexity concentrates power in the hands of the few who possess these attributes. Thus, as in England, across Europe it seems to be only the most senior officers and political leaders who interact with specialist developers and consultants. But here there is a further major difference between English and mainland systems. Whereas in England the municipal contingent are often relatively amateur, even 'part-timers', in the business of civic enterprise, on the continent this is the main, full time specialisation of their counterparts.

Knowledge and experience give those with the capacity to use systems to advantage, an increasing role in decisions. In these, England's deliberately discretionary and judgmental flexible system makes some professionals - planners, surveyors and lawyers - seem more in evidence than architects, unless they too own these skills. On the continent architects and engineers, protected by legal sinecures which proscribe against anyone else preparing or submitting plans, still hold sway. But increasingly it is those who specialise in gaining permits, rather than design, who take control. In itself this 'professionalisation' obfuscates proceedings for the uninitiated, often including many councillors.

This situation lends scope to those holding the reins of 'interpretation', the term preferred by professional informants, for manipulation. It also masks the reality, unrecognised by most, that plans and rules are over-ridden, and may lie behind the apparent belief of some English councillors that rules are enforced³³⁰, when even their officers recognise this is not the case. That planning officers are less willing than most to accept the existence of other agendas may simply indicate that such agendas are, in fact, *de-rigueur*, i.e. within the everyday world of these planners, that such agendas are not alternative or hidden, but are simply part of the process. This would also account for informal negotiation not being widely recognised. Perhaps it too is so common-place as to have become unremarkable.

Suggesting possible reforms for UK planning, Adams (1994, 224) proposes that "... *specific private-sector partners will be selected only after careful examination of their past experiences and their present interests and strategies*". This might address the redirecting effects which negotiated decisions may have on planning aims but, although many of his suggestions are encouraging, against the findings presented here, this idea would seem doomed to encourage more of the same irregular, elite driven, 'equity free' decisions.

ii) How policy 'aids and abets' negotiation

In the languages of those mainland countries considered, there is no separate word for *policy*. Instead the term *politics* is used, the understanding of *policy* being gained from the way in which this is done. This begs the question of what policies are contained in mainland plans and may partially explain

³³⁰ As noted, for example, in interviews E-05/2, E-09/2 & E-10/3

both why continental plans apparently reflect political arrangements, and why no one 'speaks for the plan'. It may also help explain why most mainland decisions appear to be motivated, at least in part, by some agenda other than spatial planning and why continental authorities frequently seem to pursue more independent policy lines than suggested by the literature.

In fact, as Albert Weale argues (Heap et al. 1992), "*Parties formulate policies in order to win elections rather than win elections in order to formulate policies.*" and most municipalities seem driven by a policy, whether formal or not, of 'enlarging the city' (Field 62/6). In some cases there are obvious reasons for this, like 'jobs', wealth generation and the personal benefits³³¹ which may flow to the controlling actors. But in many there seems no logical rationale. Despite widespread discussion illustrating how conservation objectives can displace growth goals, one is led to surmise that, built into the human psyche, there is an inherent sense that big means benefits and/or power and thus better control over circumstances, which seems a desirable state. Indeed, over 20 years since Schumacher (1973, Ch.5) first pointed out the conundrum, and as also evidenced by the European discussion of 'cities in competition'³³², those countries studied still seem propelled by the perception that 'bigger is better'. Whatever the case, the pursuit of city growth and 'image' seems almost a prerequisite for negotiation.

iii) Consensus, Collusion and Concealment

Given the research findings, in mainland Europe development control seems abandoned to often low grade interpretative skills by politicians and commercial entrepreneurs - the power seekers - at the expense of the people's social, cultural and environmental heritage. Whereas English planning professionals are frequently consulted when applications require changes to guidance plans, the role of their continental counterparts now seems more to 'invent' the routes whereby changes to legal local plans can be legitimised, rather than provide 'planning' inputs. Such 'routes' are also required to handle non-planning legislation and higher authority actions which impact on development proposals (e.g. I-01, I-04, N-01, N-02).

This is not really surprising because mainland systems were designed for unthinking administration. Consequently those able to address all of the regulations and technical requirements most efficiently seem most likely to achieve the fastest decisions, produce the most reliable structures, and therefore be most commercially in demand from a development industry heavily dependent on achieving financial performance. This dependence on technicians to interpret the 'rules' implies that few intellectuals may be involved in permit decisions, leaving the consideration and practice of Development Control bereft of real academic interest. However, although, in the words of one Italian professor, "*there may be little culture of enlightened consideration of planning issues*" (Field 54/38), the people in-

³³¹ e.g. the size of departments, salaries, etc. may, by law, be tied to the size of a cities population.

³³² see, for example, Batley (1991), Dicken (1992), Haughton (1995), Healey (1995), Jacobs (1993), Newman (1996), Simon (1994), Ward (1994a)

volved with it are all thinking people.

Herein lies another concern. Designed for the administration of pre-determined development, mainland development control accords power unrelated to responsibility and accountability. These rest with the legal plan. And it is this which should protect the electorate's interests. However, this plan frustrates both determinism and the needs of power holders for personal achievement and positive recognition. Furthermore, the ability to place responsibility for development on impersonal, pre-determined legal plans and regulations affords protection and concealment for those directing plan changes. It also facilitates delusion and unquestioning belief in those systems whose 'rules' are not understood.

As academics and planners turn un-seeing eyes to development control irregularities, assuming that, if they do occur, they are unusual, aberrant, or even acceptable behaviour which is not really corrupting of the system, concern to uphold the plan is suppressed. Thus, the search for consensus decisions can lead, perhaps unwitting, to collusion, which results in concealment, however unintended.

Although from this research it appears to be members of the decision elites who win most of the time, it is their second tier professional advisors who appear as the most consistent beneficiaries in all countries (15.4.1). Striking at the root of theoretically unbiased, predetermined, continental planning systems, if Adams' (1994, 224) prospect of UK planning enquiries becoming more dominated by professional representatives is likely to be realised, this finding raises particular concern.

iv) Ignorance, transparency and decisions

On the mainland, formally everything is done within the 'rules'. Nominally these guarantee openness, making transparency a non issue. But such institutionalisation of protections may actually enable the 'rules' to be ignored on the mainland more readily than in England. In fact escape from them is only possible by 'managing' them in ways which make the system work both in the interests of municipalities and of project promoters. To do this, and because formal measures to change plans are so cumbersome and time consuming, a number of different devices are used to avoid official changes. These enable the 'rules' to become a curtain behind which public accountability is often avoided, for example by the use of technical jargon in permits which obscure decisions from the uninitiated. As one Italian informant put it, *"The administrators are able to do what they want, thanks to the ignorance of the people"* (I-B/AB).

As municipalities, developers and their advisors all seek this escape from rule-bound systems, continental permit decision practices may appear to be moving toward UK style policy driven processes. But mainland procedures depend on decision agreements made before applications are made. Where these informal systems operate they appear to do so on a strictly 'need to know' basis. Since background and related detail of individual cases, e.g. environmental, is unknown to implementing officials, they cannot be considered, even if the officials were competent to do this..

Other elements of McAuslan's *op cit.* 'masking' may stem from tiered administrative structures, either of planning (N-02, D-02), welfare (I-03), or general administration (I-01, I-04), whether formal, as on the mainland, or *de facto* as in England. Yet primarily it seems to come not from interference by higher level governments, but from local government itself.

Examples of this are the ways in which access and openness were restricted and public consultations minimised wherever possible - even though most major developments considered were inconsistent with the legal plans and/or other 'rules' existing immediately prior to the birth of the development idea. This was done variously by fixing these during vacations (N-04), physically preventing representation (I-02), or, as in most cases, by paying only lip service to written representations. Additionally, while publicity is supposedly linked to notions of protecting the rights of neighbours and third parties, in some cases the media was used to develop a climate of public support (I-02, F-03, F-04, G-01).

Despite the fact that 'transparency', like 'participation' is voiced as a leading concern throughout Europe, it appears to have become merely a convenient phrase as a vent for public concern. To paraphrase Saunders (1979, 290) "... where transparency produces a challenge to the status quo, it very swiftly ceases to be transparent."

15.5.4 Differences in the way the 'decision game' is played

A number of important differences in the way in which the '*decision game*' was played on the Continent, as distinct from England, can now be summarized, under the following four broad, but inter-related headings:-

i) Interpreting the 'rules'

- a) Whilst in England the formal system of officers advising committees who then decide, was maintained, this has never been the practice in the mainland countries considered. Due to failures in continental systems of pre-determined plan administration, major development decisions appeared to be taken more frequently by elitist groups led by senior politicians. Operating outside any formal control mechanisms, differences between their preferred aims, policies, and 'rules' were resolved independently by them or at their direction. With the checks and balances needed to protect citizens rights and encourage equity either missing or usurped, exclusion from such group were seen as prejudicial to an actor's or agency's interests.
- b) In England the greater formal flexibility allowed by the system also appeared to encourage greater transparency. Conversely, in those mainland countries considered, reference to out of date plans and an inability to adapt these to changing circumstances, led to widespread breach of plans and regulations. Facilitated by misplaced trust in codified systems, this permitted obscurantism to rule.
- c) Commonplace free interpretation of mainland 'rules' held poor regard for planning principles or policy. However, greater attention seemed paid to the satisfaction of technical standards, plans, and planning policies in England than on the continent, where non-planning policies hold sway.

ii) permit decisions

- a) Mainland 'rules' may have provided a framework for processing applications and negotiation but, apart from technical standards, held little importance for decisions. While English municipalities remained constrained by higher level controls, in exercising greater independence, mainland practices appeared to apply the 'rules' in the promotion and protection of elitist interests. This accorded commercial and political interests a power and freedom to redefine the general public interest to suit their

agreed aims. In addressing new policy considerations, whatever 'rules' were intended for, they were primarily massaged to support these.

- b) Unlike their English counterparts, mainland municipalities, disburdened of 'slow moving planning considerations' (Watson 1992) (supposedly taken care of by pre-determined legal plans), were free to adopt market orientated, image driven, responses to changing circumstances. Thus, with decisions owing more to corporatism and bargaining within elite circles, (new) policy compliant, business friendly, negotiated developments, were secured.
- c) Whereas English planning officers were central to handling the 'planning considerations' of applications, their mainland counterparts looked after plan departures, coordinating all departments and consultees to secure notional 'conformance'.

iii) exercising influence

- a) With the influence of individual actors seemingly being more controlled in England than on the continent, their importance was more apparent on the mainland. Also, whilst the importance of private advisors was more evident in England, they were seen as actually encouraging the negotiation rather than implementation, of plans on the continent, a practice possibly taken for granted in England. This highlights an area of potential conflict of interest. Due to the system this may be more insidious across the Channel than in England.
- b) The adversarial approach to legislation, and hence development control, adopted in England, may limit the dangers of closed, covert practices which can lead to corruption. The incidence of this was more evident on the mainland. Whilst not necessarily related, it is notable that consensus building is popularly seen as the continental approach to decision making.
- c) With professionals heavily involved in the decision process everywhere, in mainland countries the attendant negotiation was highly influenced, if not controlled, by ruling politicians. In England, this rested more in the hands of the professionals, both private and public.

iv) interests in development

- a) Efforts to manage property markets via the development control system, as in England, were not so apparent on the continent. *Instead, municipalities there seemed more directly involved in development, appearing more concerned with responding to, if not managing, generally changing circumstances by promoting the image and economic fortunes of their towns, rather than property per se.*
- b) Mainland land owners appeared more directly involved in the negotiation and decision making processes than in England. This may be connected with the implication that reverse co-optation occurred across the channel, whereby 'rules' were enlisted, via politicians and bureaucrats, to serve commercial purposes.

Behaviour in decisions over land conversion

In theory, the mainland's technical administrative dispensation of pre-determined plan based land-use decisions, should be impersonal and dispassionate. The way in which those involved in development behave, should not matter. But, as the preceding chapters show, this appears not to be the case. As in England, where the permit decision process has become a 'well structured game' in which developers, architects and planning officers are all well represented, it matters how those who are important to the decision making process behave. How they perceive the 'rules', and what their attitudes to individual freedoms, justice and the collective 'good' are, may have significance for achieving equitable outcomes. Consequently it seems important to not only determine who the organisations and actors involved in the process are, as has been done in chapters 14&15, but to assess the nature and effect of their behaviour. This is the object of this chapter.

16.1 'Rules' and behaviour

To assess attitudes to the 'rules', two questions were posed to an overview of the data:-

- what do the actors see as the purpose of the 'rules'?
- regardless of this, how are the 'rules' actually used?

16.1.1 *The perceived purpose of 'rules'*

Linking with the discussion in 2.4, Chart 26, p.292, illustrates that planning 'rules' appeared to have little or no generally agreed purpose ■. In England 63% of cases evidenced this, elsewhere it was 81%. Although this difference could have been caused by mainland RA's being less familiar with their countries' systems³³³ than those in England, this finding is consonant with those in many other categories. Even the importance of rules for health ■ and safety ■, generally presumed as origins for planning systems (2.4.1), seemed totally absent purposes. This might be expected in England, where these issues are now primarily dealt with under building or environmental health regulations, but on the mainland, where building and planning control are combined and therefore should be evident to this research, they gave only weak showings. Furthermore, environmental control ■ and urban control ■ were also only represented in one or two cases overall.

³³³ Most RA's in England had some direct background knowledge of the planning system. Because planning often forms a small part of other subjects in continental countries, this was less the case there.

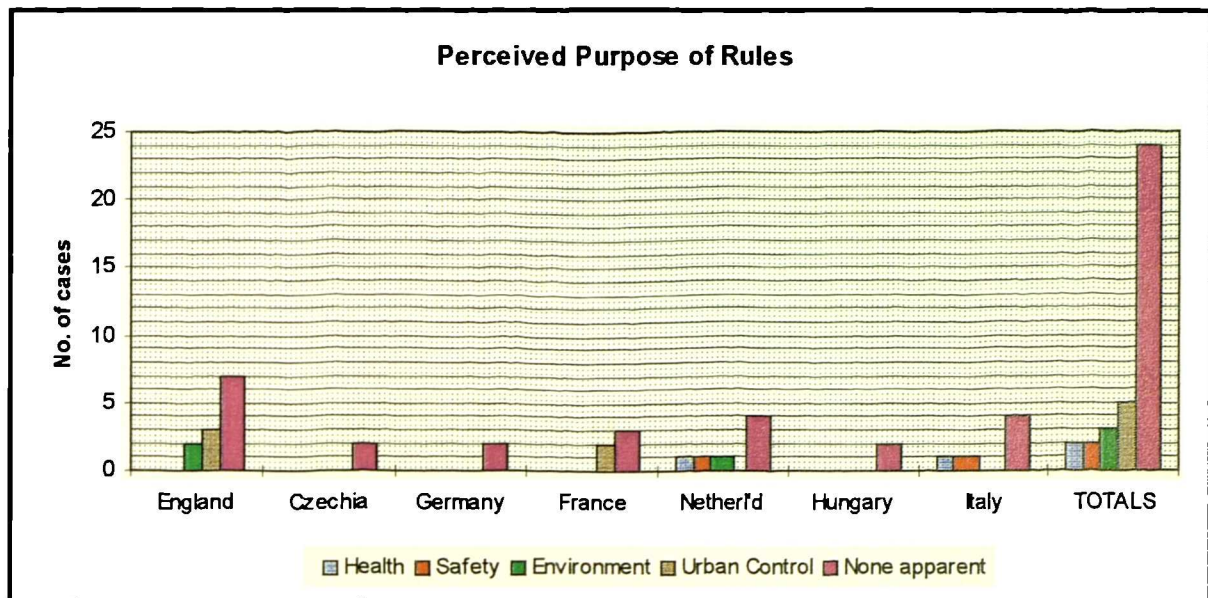


Chart 26 *Perceived purposes of 'rules' identified by country and total*

These observations, as they apply to Europe, are well captured by an Italian researcher's perception of what has happened to planning's purpose in that country (Illustration 5, p.292).

Planning's evolving purpose - an Italian perspective

"(Planning) Laws were intended as a tool of social control, but the original purpose of the law has been lost by practitioners. It is now only a question for reflection by theorists. Therefore (today) we have something like a structure that has no aim. Regions have to approve plans without any purpose and different regions follow different purposes."

Italian Institutional Researcher (I-gen/AB/5)

Illustration 5 *An Italian view of how planning's purpose & 'rules' have changed*

These comments support Saunders (1979) view that planning is an agency of social control rather than social change, i.e. it maintains, if not promotes, the status quo rather than providing a means for participative, evolutionary adaptation. In his words, "... where participation does produce a challenge to the status quo, it very swiftly ceases to be participatory." (290)

While, because of the socio-economic approach, English planning may embrace more issues than individual continental systems, generally it seems that the relevance of any of the 'rules' was poorly recognised everywhere. Accordingly, it is perhaps small wonder that they were seen as 'empty of purpose', that few people seemed much concerned about their contravention, or that they were apparently so easily circumvented (Ch.14) - even in England. But, additionally, because continental 'rules' appear more difficult to change than those in England, it is possible that they live on longer and become less useful. This begins to place several other observations in perspective and helps explain, at least in part, the trend toward free bargaining and negotiation (Ch.15). As, for example, the combined decision matrix (Figure 69, p.295) indicates the absence of clear purpose and seems to favour political and commercial interests over local interests, enabling both applicants and politicians to 'balance' their interests, while those outside the decision making elite (Ch.14 & 15) cannot.

16.1.2 The actual use of 'rules'

If the 'rules' had no apparent purpose to guide their use, how then were they used? Judging by 90% of mainland and 45% of English cases (Chart 27, p.293), whatever planning 'rules' were intended for, it seems they were 'massaged' in support of other, non-spatial policies ■. In fact overall 72% of decisions appear motivated, at least in part, by some policy other than planning, like education, crime, inward investment, local taxes and autonomy. The fact that this appeared twice as prevalent on the continent as in England, possibly reflects greater mainland autonomy over local finances. Such pol-

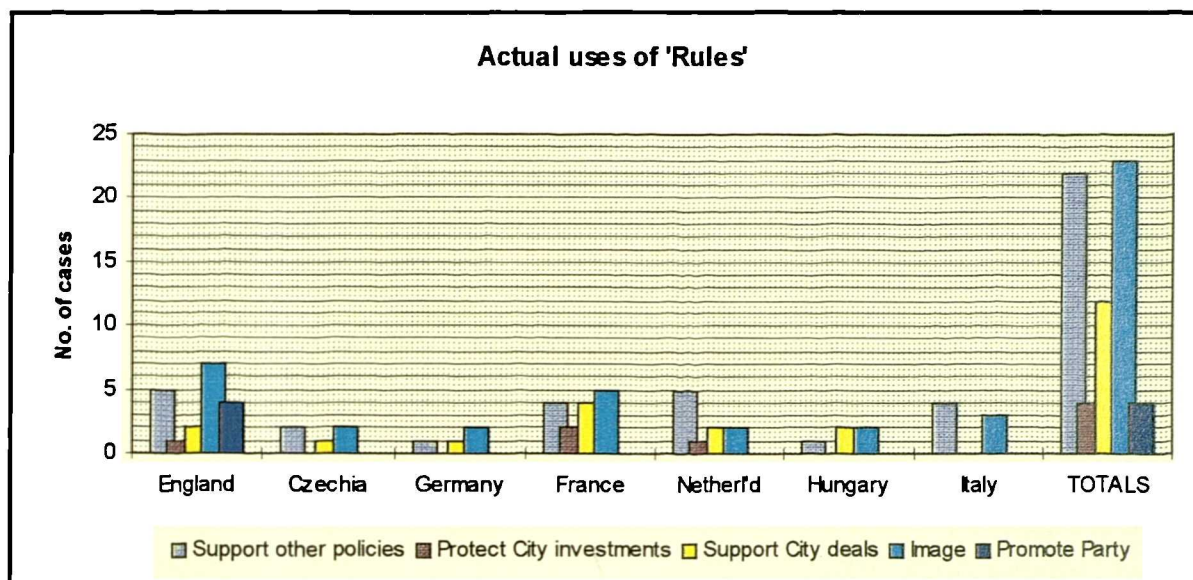


Chart 27 Some actual uses of 'rules' identified by country and total

icies appear linked with the promotion of 'image' ■, both of politicians and municipalities. However, here the gap narrowed to 76% and 64% respectively. In 48% of continental cases, supporting municipal 'deals' □ also seemed a major objective, although this dropped to only 18% (2/11) in England. As a French chief planning officer's explained *"Decisions are all political. They have no real reference to planning considerations. Much can be a matter for image, for example, through election considerations. The result is a lack of continuity in any plan"*

Apparently absent on the continent, the use of planning to promote national party politics ■ seemed unique to England, where it appeared in 36% of cases. Consonant with the idea that continental authorities enjoyed more autonomy than in England, this suggests that English national politics may have been more overtly involved in planning. As an English councillor observed, *"Political and market considerations often coincide, especially at higher levels. This was particularly so in the 1980's when the area Health Authority had the ear of government."* (E-07/1). On the mainland, as noted in 14.2, planning and property development was seen more as a local tool, often used to help secure a mayor's re-election, especially if related to packaged offerings. Presumably due to the non executive nature of English politicians this was not seen in England. However, another councillor's admission that, *"Since development is not strongly controlled by committees, political ideology is often adapted to the circumstances."* (E-05/2), suggested similar *post hoc* rationalisation of permits to suit

policy as on the continent. Of course many municipal policies may relate specifically to planning and property development, but, as a Dutch chief building officer observed *"Sometimes, even though development permits are not per the plan they are still granted for economic reasons - these being more important than plans."* (N-CBO). There was, for example, some evidence (14% & 9% respectively) of 'rules' being used to protect city investments ■ .

What seemed to have evolved was a sort of 'cosy collusion' which enabled continental actors and agencies to secure policy compliant 'business friendly' negotiated developments where these embraced *ad hoc* local policies seen as 'economically' favourable. In some respects these arrangements could be interpreted either as favouritism or clientelism³³⁴ (see Illustration 6, p.294) . In the same vein a German researcher commented that *"Linkage policy is used to circumvent plans, satisfying another policy objective by overriding plan objectives."* (D-gen/78)

This is not to criticise since, from an English perspective, the mere fact that conditions had changed suggests that in all cases good market and policy reasons to change policy existed. Indeed, as shown in 13.3, driven by change in circumstances, the policy and practice of re-allocating existing site use and redeveloping for alternative uses appeared common practice, being found in 1/3 of all projects.

Favours or clientelism?

"There are a lot of tight links between the council and firms. For example, the mayor was employed by Now he's retired he's chairman of the electricity supply Co. and swayed the vote commercially in a recent debate."

German Councillor (D-gen/52)

Illustration 6 Favours or clientelism?

Many municipal uses of the 'rules' also had commercial and private counterparts. For example 'city image' was also of real importance to developers and end-users in extracting maximum commercial advantage from a project. With city deals often involving private sector actors and agencies, more generally, it was possible that, for example where planning gain or its equivalent was involved, this could be linked with whether or not the project proceeded. Equally city investments could have been linked to private sector commercial success, and a range of local authority policies could have been influenced by any major development decision.

16.2 Comparing behaviour via the decision matrixes

The results of this general behaviour and use of 'rules' can be seen in Figure 69, p.295. This collects and compares the location of the twenty-seven decisions³³⁵ to grant development permits analysed in Chapters 5-11.

In this, if MEU decisions had followed the 'rules' (Ch.3), then 'plan conformance' decisions should

³³⁴ clientelism: a process based on relations of dependency between state officials and politicians with the latter acting as patrons to dependent claimants or suppliants who receive resources in return for, usually, political support (Healey, McNamara, et al, 1988, p222)

³³⁵ as previously explained, 5 of the English cases are not included in this

fall toward the upper right sector of quadrant 'A'. Likewise flexible English 'policy led' decisions should locate toward the centre left sector of quadrant 'B'. Both would favour equity and transparency. But an immediate observation is the pattern of high case concentration in the bottom right of quadrant 'C'. This is the exact opposite of what should be the case for the mainland. In fact if those Dutch and CE decisions with a possible spread of locations (as indicated by the long lines) were placed in this sub quadrant of 'C', then 59% (16/27) of cases would be seen in this sub quadrant. This would then represent 50% (3/6) of the English cases discussed, 59% (10/17) of those in the MEU, and 75% (3/4) of those from CE. Implicitly these locations suggest patterns of behaviour which favour secrecy and preferment (5.3.2).

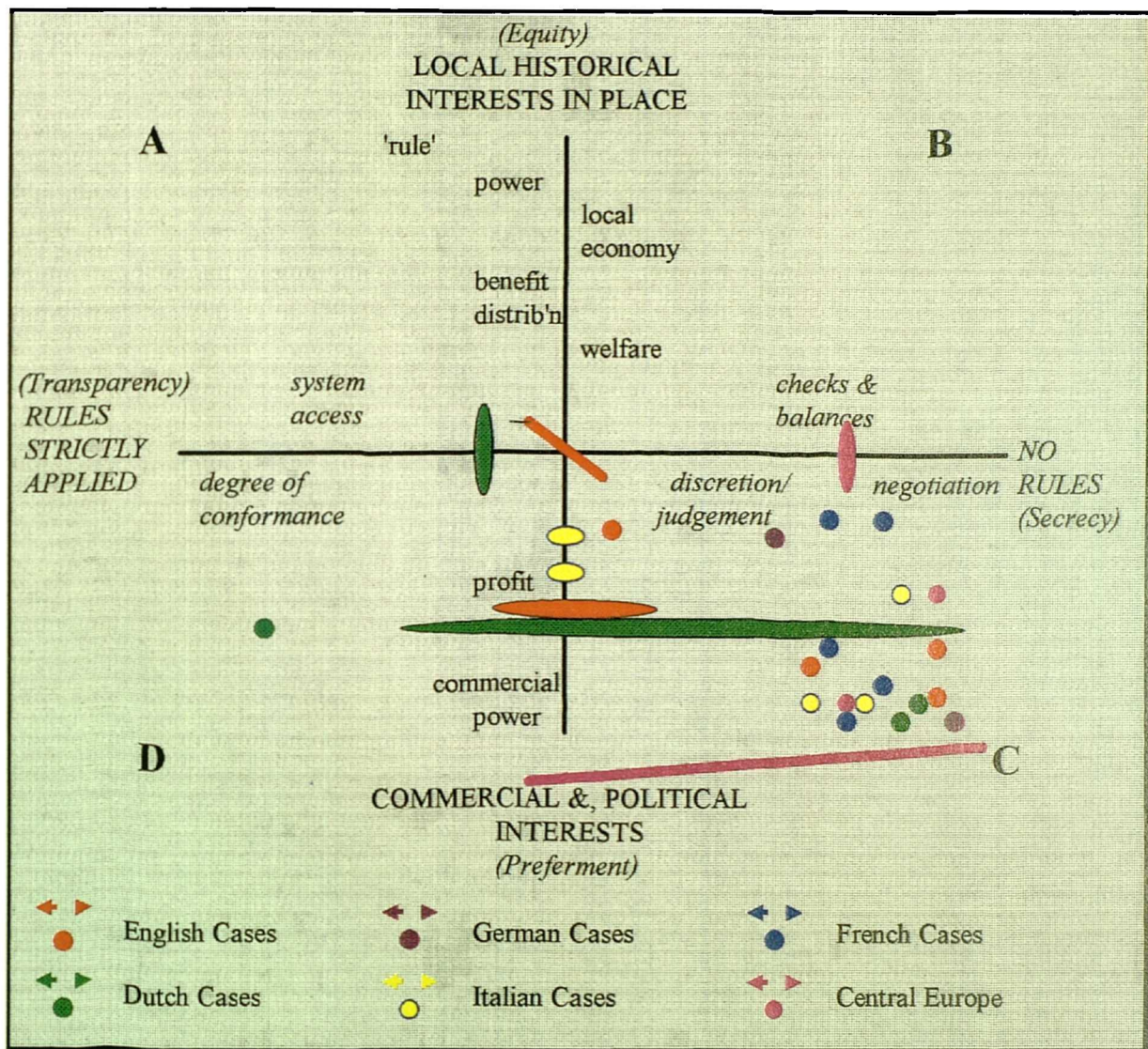


Figure 69: Combined Matrix of rules, interests and power in European land-use decision making

Surprisingly, given the objectives of continental codified systems (Ch.3), this suggests that, as a 'country block', England may have paid more attention to the 'rules', although if separated from the rest of the mainland the Dutch show a similar tendency. There is also a hint here that Italy's 'rules' may have exercised a somewhat stronger framing role than in other mainland countries. However, overall this decision behaviour inclines toward negotiation and an avoidance of 'rules', with 18/27

cases (67%) located toward this end of the horizontal axis. This becomes 74% if the variably spread (the long line) Dutch and CE cases are focused here.

Of equal, if not greater, significance is the observation that, in 67% of cases (18/27), decision behaviour appeared to be closely influenced by profits, commercial power, and commercial/political interests. The incidence of this seems much the same across all countries. It contrasts with the lack of consideration exhibited for local historical interests in place³³⁶. Within the MEU only the Netherlands showed any such concern, matching England and Central Europe which hinted at this in just one case each, although commercial considerations might be claimed by some people as having been in the wider 'public interest'.



The matrix tends to confirm the indications drawn from the English cases (5.3.3) that decisions incline toward a process of outright negotiation. Plans may have been used for policy guidance, but decisions either ignored or flexibly interpreted these in the discharge of this duty. If an English councilor's statement that "*Policy changes regularly at the will of committees.*" (E-07/1) holds generally true then, although such behaviour may reflect "*ad hoc negotiation*" as a feature of permit decisions, these seem more consistently influenced by commercial than local community concerns.

This observation is consonant with the suggestion, implicit in all these comparisons, that across all countries considered, permit decision behaviour revolved around relatively 'rule' free negotiation. In this, negotiation, and possibly because they lacked representation at the bargaining table, local historical interests in place, appear to have been largely ignored. This was so even though local environments and communities bore the greatest impacts from such 'negotiated' development. An important related observation is that, via this negotiation, commercial and political interests appeared to use their relative freedom to redefine the general 'public interest' to suit their internally agreed aims.

Once again this reinforces the idea of an emergent hybrid decision making process (15.3.4).

16.3 Motives for taking decisions

The last two sections suggested some motives for decision taking behaviour; Chart 28, p.297, now identifies seven which emerged from the data. Whilst the legend to this is broadly self explanatory, competition & promotion includes corporate and personal image, financial reasons covers both public and private realms, planning reasons links with planning principles as being 'good practice', and 'other agendas' refers to those considerations not directly related to the application.

On the mainland *Competition & Promotion* , with a 71% incidence, seemed a prime motive. But, with only a 36% showing, English municipalities appeared rather less concerned about this. Likewise financial reasons  were twice as important on the mainland as in England, supporting the idea that the raising of local revenues influenced mainland decisions. While most decisions seem to have been taken on an individual, discretionary or negotiated basis, within each motive identified economic con-

³³⁶ i.e. those of the local community (see glossary)

siderations did seem to be the driving force. Indeed, economic development and/or financial drive - e.g. concerns for image, competition, and civic finances, all represented by 'other agendas' (see 16.1.2) - was probably critical. Startlingly these 'other agendas' appeared in 81% of all decisions, 59% being in combination. (see Ch.5-11).

Such agendas, together with environmental protection, environmental exploitation, and environmental quality were present collectively in more English cases than on the continent. Of the four decisions in which environmental quality and protection featured, England claimed three and two of these respectively. Indeed, English authorities appeared more concerned about environmental protection than those in the rest of Europe combined. Even the Netherlands, which boasts a high environmental profile, appeared to pay only small regard for the environment when considering major private developments.

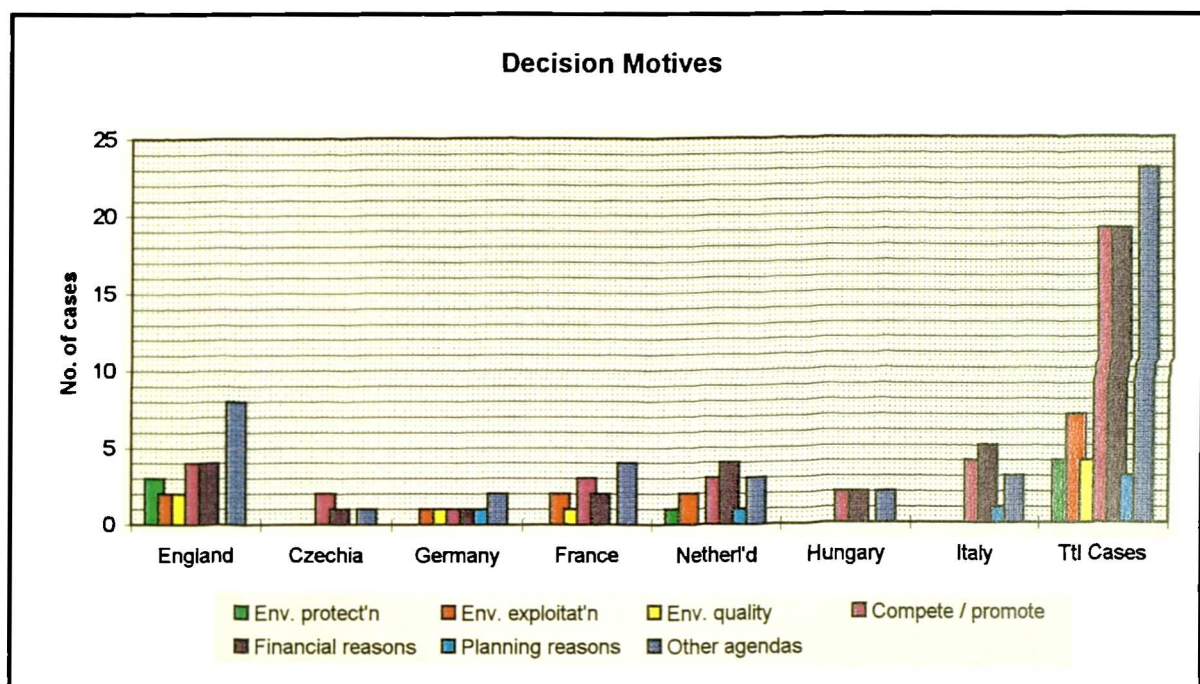






Chart 28 *Motives found for taking decisions in practice by country and total*

The story was much the same for environmental quality and equally disappointing for England. Generally greater importance appeared to be given to the exploitation, rather than protection, of the environment. Seen more on the mainland, this exploitation appeared in conjunction with either competition, finance or other agenda reasons in six cases, often coinciding with high competition and promotional decision factors (Germany, France, Netherlands). Perhaps, then, it is not surprising to find 'city marketing' currently being promoted in some mainland, as well as UK, planning schools as a means of using or re-aligning planning with such 'competitive' objectives in pursuit of local economic development.

Most major private development permit decisions appeared motivated, at least in part, by some agenda other than plans. Not surprisingly, therefore, plan-making (or planning as a discipline) and non-economic planning reasons, trailed the list. They were evidenced in only three decisions, one

in Germany, one in the Netherlands and one in Italy. Against this back-cloth any presumption that planning and development control behaviour aims to mediate a 'balance' between all interests in permit decisions, seems highly suspect. Indeed, given that 'planning' is controlled by politicians, it is difficult to see how it has the power to do so.

16.4 Organisations and behaviour

As shown in Chart 29, p.298, local authorities  and statutory consultees  were, understandably, involved in all cases, although in some of the mainland cases it was unclear whether all of those who should be consulted had been. There was also an interesting division in the use of other, non statutory, consultees  by local authorities and the use of private consultants  by the private sector. In 45% of English cases extra-statutory consultation was involved. On the continent this was only 19%, lending weight to the view that English procedures may be more open and transparent (15.4).

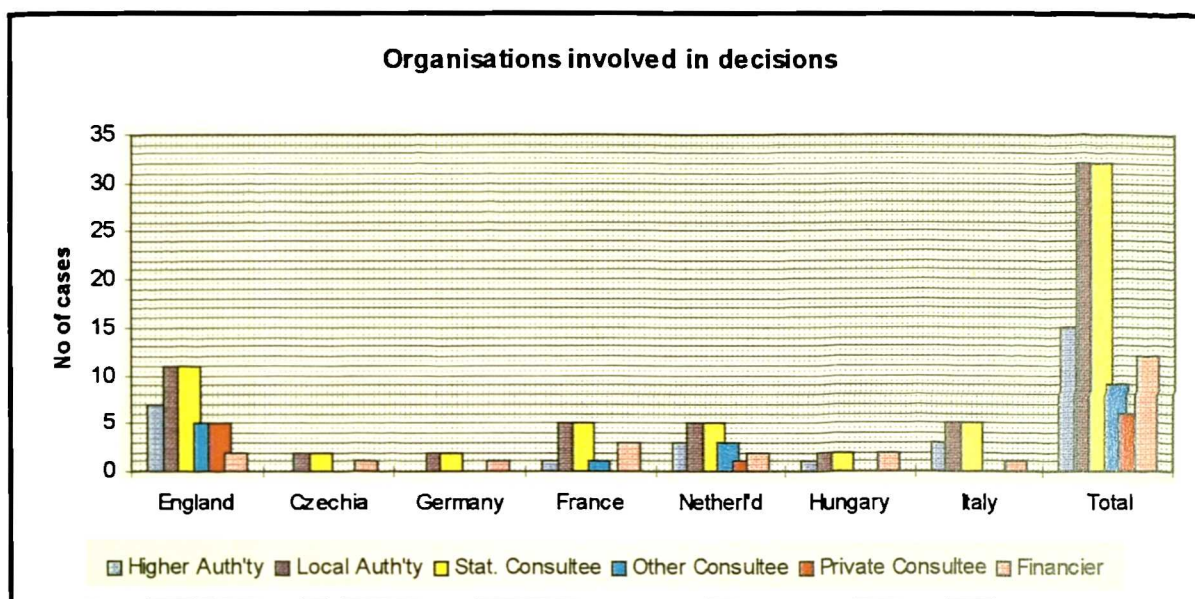



Chart 29 *Organisations involved in permit decisions by country and total*

Excluding the applicants, who in England are often professionals acting as agents and in most continental cases must, by law, be architects or engineers, the difference is even more marked for the involvement of private consultancy firms. Again, these were used in 45% of the English cases, but only 5% on the mainland. Given the nature of these instances - specialist highway engineers, lawyers, etc. - this finding may also support the observation in 16.5 that the English system pays more attention to technical and judgmental issues (15.5.4).

References to higher authorities³³⁷  were, at 64%, substantially greater in England than on the mainland (38%). Apart from the greater local autonomy apparently enjoyed on the continent, this may reflect the lower rates of objection /opposition noted there in 16.5. It might also have some relationship with the way in which mainland 'rules' appeared to be less subject to challenge at local level. Indeed, perhaps axiomatically, local policy seemed to take on greater prominence in mainland coun-

³³⁷ Secretary of State for Environment in England, Regional/Provincial authorities or Administrative Tribunals/Courts on the continent.

tries (81%) than in England (36%). Contrary to expectations (Ch.3) this suggests that English municipalities could have been more constrained by national (higher) level policy and that continental authorities actually pursue more independent policy lines than suggested by the literature. Cultural approach may have something to do with this. Continental systems may, for example, possibly encourage the (mistaken) belief that all interests are protected by the system or that there is little or nothing anyone can do about the decisions and actions of those in authority (15.5). Indeed, as Healey (1995b) notes of England, it would seem that across Europe “... *there are more ways to constrain land-use decisions than by formal rules.*”

Indeed, in England, involvement of either the Secretary of State, the planning Inspectorate or a Central Government agency (e.g. English Heritage, Conservation, Ancient Monuments), evidenced a centralised system. This lends weight to the idea that national lobbying, as carried out by major development forces like the House Builders Federation (E-03), Superstore operators (E-05), and important industrial and welfare organisations (E-07, E-10), was both important and effective there. It also evidenced a high degree of Central Government presence in what are supposedly local planning concerns. As noted above, although obviously involved in all cases, on the mainland local authority decisions seemed far less subject to such outside interference.

However, the use of some vehicle to secure land development for the benefit of the municipality (e.g. SEM's, municipal land dept.) or to execute higher level policy (e.g. by UDC's) over a period of time, was twice as evident in MEU countries (35%) as in England (18%). But the difference in objectives of these types of body served to emphasise the greater impositions placed on English municipalities. Seemingly contradicting this, higher government level influence was seen in 41% of mainland cases as against 18% in England, which primarily reflected the central government intervention element of 'rules'. However, the fine grain case detail (Appendixes 14-16) generally shows this to be the formality needed to ensure that decisions reflected the 'rules', even if these needed to be adjusted.

On the continent too, financial agencies and/or investors □ (48%) appeared to take part directly in permit negotiations, something not clearly seen in England (18%) (8.14.8). This may have arisen for several different reasons: For example, focused through consultants and developers, the financier's role may have been rendered less visible by the English approach to development; English developers may have internalised financial affairs more than their continental cousins; they may have been more skilled and practised in the sale and marketing of projects (except perhaps residential); their operations - particularly at the application stage - may have been more speculative; and local authorities may have been less interested in the promoters' ability to realise the project than on the continent. In fact, as at August 1995, 36% of the English projects remained un-built³³⁸, as against 9% (1 France, 1 Netherlands) on the mainland. All of this supports the suggestion that in mainland Europe there may

³³⁸ One of these was refused as being effectively premature.

have been a greater degree of commitment to realisation and more concern to avoid speculation when decisions were being taken on land (re)allocation.

In support of what seems a general policy of *negotiating* development, a further common policy was to place municipal resources - e.g. property, the 'rules' themselves, political influence, etc. - at the disposal of developers in the hope of luring other enterprises to a town, e.g. I-04. As noted (14.2), the background policy for this seemed to be to attract 'jobs'. In England, for example, they featured prominently in many of the cases studied. However, although English authorities appeared constrained by higher level policy, despite their openly flexible system, their mainland cousins seemed more free to pursue independent policies. There, *de facto* flexibility and the re-allocation of existing sites helped retain productive land-use, with employment (jobs) policy being subsumed within this.

16.5 Actors and behaviour

While Chart 30, p.301, properly shows continental building officer involvement³³⁹, contrary to the 100% expected if mainland systems operated as intended, they were only party to 76% of the decisions considered.. Planning officers were, of course involved in all English cases but instead of being excluded from mainland permit decisions, as expected, in 62% of cases there they also played an important part in these. This relates to plan departures, where they had the job of co-ordinating all relevant departments and consultees³⁴⁰, including any at higher level, e.g. regional or provincial approvals, as well as 'fielding' public/3rd party objections, to facilitate necessary changes. Perhaps also for this reason, Heads of Department seemed slightly more involved over the Channel than in England (62%:55%). However, again possibly as a hangover from the former regime, they were 100% involved in the CE cases.

In only 45% of English cases was the influence of political leaders brought to bear. While the system there is designed to enable it to be so, on the continent, where the systems are supposed to avoid it (15.5) their influence was recorded in 62% of cases (76% MEU, 50% CE). Conversely, the influence of the ordinary politician or spokesman was significantly more noted in England (64%) than elsewhere, although given the adversarial nature of the system one might anticipate a fairly high incidence for this. In contrast, since continental codified 'rules' should take care of third-party interests (Ch.3) one might expect this to be low or non-existent. In fact it was 29%. The inference is that such interests were not that well cared for on the continent. As seen in section 16.4, their institutionalisation perhaps enabled them to be ignored more readily than in England. On the other hand 3rd party interventions were twice as notable in England (45:24), encouraging notions that either English citizens are less well protected than those on the continent, or that perhaps they have a higher sense of empowerment, with easier access to and greater participation in urban affairs. Indeed, these concepts

³³⁹ Involvement of building/technical officers in handling administrative matters is not considered to be involvement in decisions.

³⁴⁰ Consultees are both statutory and non-statutory, e.g. utilities, highways, property analysts, etc.

may be mutually supportive, greater activism being a response to less formalised protection

On the mainland the involvement of land owners (64% -v- 90%) and developers (82% -v- 95%) seemed greater than in England, where private professional advisors were seen to be involved in all cases, compared with the mainland's still high 86%. When assessed alongside the levels of political and department head activity noted above, contrary to expectations this implies that English decisions depended more on the satisfaction of technical and/or judgmental considerations, than did those over the Channel, i.e. English decision making behaviour may actually have been more techno-centred. In England, for example, the importance of private highway engineers in winning many local traffic arguments was demonstrated by their presence in all five of the cases where private consultants were called in. Indeed, traffic issues were perhaps the major technical obstacle which English applicants had to overcome. Failure to resolve them would have resulted in total rejection of the proposals as drafted, regardless of all other issues, or required them to be scaled down, perhaps to the point of un-viability. In this way these were techno-centred, 'public interest' considerations. In contrast, on the mainland, negotiation or 'deal making' between commercial and political principles would seem to have been more important, possibly evidencing at least the same if not more behavioural skills than in England. Indeed, it would seem that at least some European planners are now using negotiative and mediating skills as much as analytical, etc. skills³⁴¹.

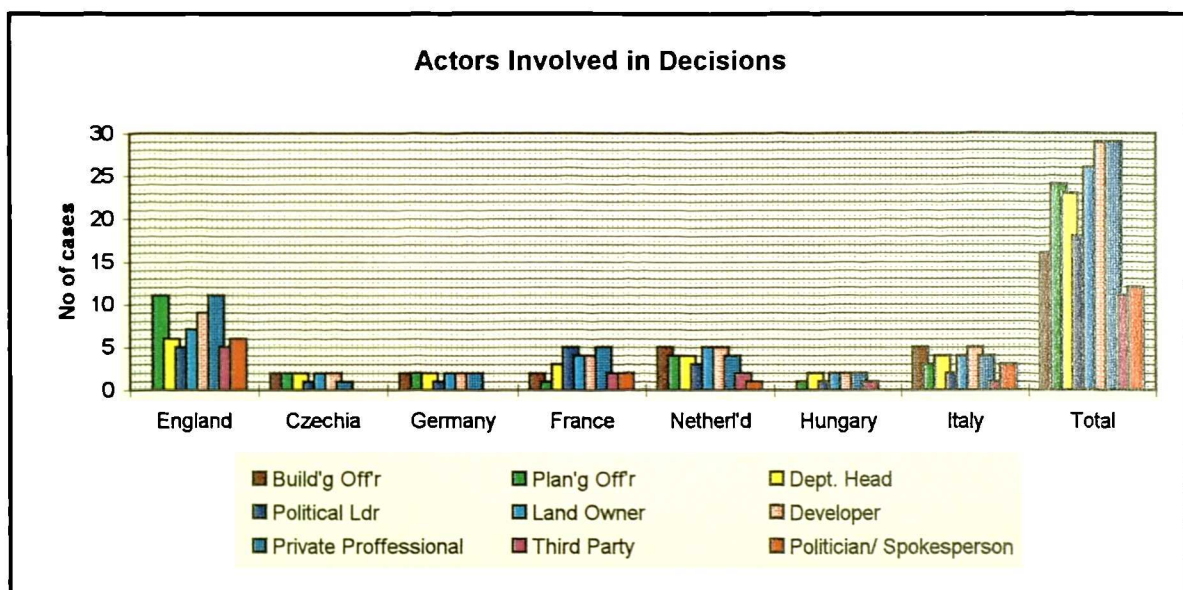


Chart 30 *Actors identified as involved in the permit decision process by country and total*

This supports the idea that land-use decisions at the point of development were far more an affair for professional officers and advisors in England, where they were 'flexibly' determined in accordance with guidance plans, planning policies, and planning principles, than on the continent where behaviour patterns imply that politicians decided and officials found ways to implement the decisions (Ch.6-11). This may also suggests one reason why slightly greater importance appeared to be paid to environ-

³⁴¹ see, for example, *A German Planner's Evidence* at Appendix 9.

mental issues in England.

Continental *negotiation* also appeared to involve a more extensive range of actors than in England, like building officers and heads of department as well as planning officers (see above). When informal changes were to be made to continental plans, the agreement of heads of various departments, statutory consultees, and possibly regional government seemed to be required. Presumably this was because of the need to demonstrate at least notional conformance (15.1). The officer placed in charge of securing this thus acquires similar status in the process to ordinary (case) planning officers in England, who were nominally responsible for ensuring compliance with regulations and other technicalities. In the normal course of events the discretion and judgement exercised by English officers accorded them greater importance than the strict conformance monitoring role filled by continental building and technical officers. For this reason the status of English planning officers within the decision making³⁴² process was considered to be higher than similar officers on the mainland, where they existed. There, the latter were seen as playing an almost incidental role, along with other private consultants, similar to that of other departmental heads and statutory consultees in England. This may be because their role was more related to policy and/or plan development, or because English officers took greater care to ensure that consultations were properly obtained, something not always evident on the continent. Indeed, as previously suggested, these may sometimes have been 'forgotten' to ease approvals (e.g. Ch.6).

16.6 The influence of development type on behaviour

Although political leaders were dominant actors in continental decisions, departmental heads often played an equivalent role. However, this was not the case with residential developments, where the politicians were more important, possibly because housing was so often politically and emotionally charged. Ordinary councillors appeared most active in superstore and residential developments, probably because of the potential for personal image 'spin off'. But their role was generally eclipsed by their leaders and chief officers. Ordinary officers and statutory consultants played a modest role in all types of development, but this was rather less so for hotels where, along with shopping schemes, the voice of third parties was most in evidence. Interestingly, they had a much smaller part in mixed use and residential schemes.

While professional advisors and developers were seen as universally important in marshalling the forces for change across all types of development in all countries, the importance of end users³⁴³ was seen to differ widely. Their involvement was essential for superstores, highly important for hotels, of small note in mixed schemes and apparently of little importance for residential projects (13.2). Likewise the relevance of financiers and investors was greatest for hotel and mixed development schemes. Land owners seemed most active in hotel and shop projects, although still important in other schemes.

³⁴² as distinct from decision taking process (defined earlier)

³⁴³ i.e. the availability of and degree of attention paid to the specific requirements of end users.

This contrasts with the views expressed, which suggests that *land ownership* was of no great importance (Ch.13). But, with those views considered as understated, the lesser importance of mainland land owners *vis-à-vis* professional advisors, developers and the municipal *control* of land, places this more in context.

16.7 Theorisation - behaviour under changing conditions

Like all regulatory structures, planning and development control systems are designed for and depend on their acceptance and compliance by those subject to them. In all countries considered the presumption is that development applications will be submitted and processed in accordance with their procedures and that permits will be issued or refused accordingly. Instead, what appears to be happening across mainland Europe is that, formally tied to plan based land-use decisions, continental authorities are 'inventing' contemporary, policy-driven approaches to help them escape from what they see as inappropriate 'rule-bound' frameworks. Such inventions appear to have little regard for the objectives behind the extant systems or the purposes which their authors intended for their application.

In responding to competing, mutually incompatible external interests, in which short term opportunism rather than long term rationality directs planners actions, it seems that every opportunity is taken to escape from what is now widely seen as the purposeless rigidity of mainland systems and, in the wake of a wave of decentralisations³⁴⁴, avoid further creation of these. As Jowell (1977) recognises, *"...if negotiation can avoid zero-sum possibilities it is natural for parties to prefer a negotiated solution rather than one based on fixed and immutable criteria."*

Superficially it appears that mainland practices are moving toward English style flexibility. What this means for the process of these systems, however, is that they are actually becoming unlawful, if not actually illegal as, for example, with case D-02 where implementation created a development which, because the 'rules' had been manipulated to permit it, was lawful but, because it did not conform with the extant 'rules', was technically illegal; or, as with the Dutch projects constructed under 'Article 5' (a mimicking of a hand held between regulatory eyes and an application to hide non conformance); or even more pragmatically, as with Italian 'amnesties' which legalise '*abusivismo*', e.g. of houses built without any application or reference to the 'rules' whatsoever. In itself this introduces the apparent reluctance of authorities across the mainland to enforce regulation through demolition. The implication is that, in default of - perhaps pending - wholesale reform, it has become acceptable behaviour to marginalise the 'rules' and ignore *due process*.

Although the exact circumstances of individual cases may be used in different ways by different actors and agencies, this behaviour seems influenced more by markets than political ideology. Furthermore, while land-use changes are often subject to *ad hoc* decisions they result from keenly negotiated,

even opportunist, responses to these market factors, not '*arbitrary ideological whims*', as Simmie (1993,1-2) asserts. Indeed it must be noted that it is leading politicians and not party politics, other than those associated with gaining and retaining electoral power, which are important. These are seldom involved in individual decisions.

16.7.1 *The influence of capability and conditioning on behaviour*

The difference in knowledge, training and experience of professional advisors appears to reflect the alternative approaches inherent in the English common law -v- Continental civil law legal systems. These are epitomised in the difference between the use of judgement -v- prescription. This determines the skills and capabilities available in the decision process and explains why they are not the same. They are described at 15.2 and 15.5.

In England, negotiating the permit takes the form of advocacy. Practised by professional planning, surveying and legal specialists from both applicants and local authorities, developers seem to marshal these in greater strength than do municipalities. In England these three professions seem more evident in negotiations than those of architecture and engineering who, unless they too own these skills, are called on as consultants to determine technical issues. On the Continent prescriptive plans and codes are satisfied by applications presented by technical professionals from engineering and architecture³⁴⁵. Those best able to handle technical compliance are effectively in most demand. Negotiation over development use, type, size, etc. is a separate matter. It takes the form of bargaining and is usually the province of principals, i.e. the senior politicians who form the municipal 'executive' or their specially appointed officers, and the applicant's director/s. This may reflect the fact that continental mayors and political leaders hold salaried executive positions³⁴⁶ for their term in government, whereas in England mayors³⁴⁷ hold only honorary, short term (usually 1 year) positions. They, like all English councillors, are non-executive and receive only nominal pay and expenses. However, this was not an area of investigation and too little is known about the possible influence this difference could have.

Table 24, p.305. contrasts a range of permit decision making behaviour, as distinct from planning behaviours. These behaviours may contradict what might usually be expected in behaviour associated with plan making, the consideration of planning principles, or the balancing of interests.

What is immediately apparent is the use of a mixed range of behaviours and the tendency for these to move together from both sides of the Channel. Pressurising the checks, balances and impositions of

³⁴⁴ According to Goldsmith (1993) whereas during the 1980's governance in Britain was centralised, in most other Western countries it was decentralising (p.63)

³⁴⁵ Architecture is considered an engineering subject in most mainland countries. What students are taught depends on the school. Engineers take a technical approach in planning techniques, Architects take a design approach in civic design. "*There is no culture which looks at enlightened consideration of planning issues.*" (I-N/I). According to Klosterman (1981), the rational planning model is still taught in planning schools. Whilst conceding its demise, Alexander (1981) concedes that there is little to replace it.

³⁴⁶ In Holland, for example, the *Bourgemeister* is a crown appointment

³⁴⁷ now often renamed 'chairperson of council'

regulatory frameworks, these behaviours seek out the spaces within which major degrees of discretion and judgement can be exercised. These emphasise the short term, site specific, economics dominated, trend in decision-taking in which the secrecy concomitant with entrepreneurialism and politics has become an essential part of a negotiative process (Simmie and French 1989).

| The influence of capability & conditioning on permit decision behaviour | | | | | | | | | |
|---|----|------------------------------|-----|---------------------------|--|--|---|------------|----|
| Present in | | | | | | | | Present in | |
| UK | ML | | | | | | | UK | ML |
| ✓ | × | judgement / art | -v- | technical standards | | | | | ✓ |
| ✓ | | soft social | -v- | hard technical | | | | | ✓ |
| ✓ | ✓ | individual | -v- | group | | | | | ✓ |
| ✓ | ✓ | champion | -v- | consensus | | | | | ✓ |
| | | social | -v- | economic | | | ✓ | ✓ | |
| | | long view | -v- | short view | | | ✓ | ✓ | |
| | | broad (land) | -v- | specific (site) | | | ✓ | ✓ | |
| | | generality | -v- | specificity | | | ✓ | ✓ | |
| ✓ | | transparency | -v- | secrecy | | | | | ✓ |
| ✓ | ✓ | flexible change management | -v- | predetermined conformance | | | × | × | |
| ✓ | × | wide admin. Discretion | -v- | limited admin. Discretion | | | | | ✓ |
| ✓ | | officer judgement and advice | -v- | political direction | | | | | ✓ |

✓ = predominant behaviour, × = absence of behaviour, blank = behaviour may occur.

Table 24 Contrasting behavioural influences on permit decisions

16.7.2 The motivation and control of behaviour

Property markets may play a role in bringing land forward for development, but in England appear to have less influence on permit decisions. Their importance lies more in influencing the type and timing of development proposals, something which, until recently, lay outside the normal comprehension of many English planning officers and may still do so on the continent. Consequently, while development gain/betterment does play a part, such considerations are themselves contingent on other factors. However, mainland municipalities seem more directly involved with implementation. While their officers may not understand property markets, it is likely that the mayor's team of city entrepreneurs does. Likewise, because of institutionalisation (16.5) and subsumed policies (16.4) planning gain and job creation may not appear as important as in England but, together with, for example, regeneration, they may be very much in the 'team' mind when they are negotiating.

Although linked to property markets, the consideration of the profits arising from land conversion, i.e. from one use to another, and development is a separate matter, playing an important role everywhere. Much of this is self evident from the above discussion, but a major inherent danger, potentially enhanced in systems which permit *ad hoc* policy decisions, which appears increasingly the case across Europe, is that the private gains available are so great that they expose the system to corruption. Although bribes were observed in only one, Italian, case, potential for favours and obligations to influence planning decisions was noted in all countries. These seem always linked with policy instruments.

Take, for example, the Dutch architectural practice which organises an annual 8-day golf tournament for developers and municipal 'friends' (N-05/2); or the Dutch national planning inspector's accep-

tance that municipalities co-operate with developers to permit otherwise illegal development via Article 19 (N-NPI); or the German political leader's recognition that, as in France and Italy, it is 'normal' for business organisations to make 'donations' to local political party funds (D-01/3); or even the CE architect's use of personal friendship with the building inspector to 'make short cuts'. If not actually corrupt, all are certainly potentially corrupting of their systems.

It matters not who the actors are, whether from the local aristocratic family, business, politics, or simply the local Mr Big, fringing on the Mafiosi³⁴⁸. For as one Italian expert (I-N/I) explained, it is more the pattern of patronage in which "*men of honour*" are responsible to whomsoever they owe fealty for position and protection, having obligations which have to be discharged whenever they are called upon to do so, even to "*killing another person*" (*sic*). While this may sound extremist, the manner in which the researcher was denied access to records and 'warned off' pursuing enquiries in several cases in different countries, in itself suggests that it may not be.

16.7.3 *The influence of 'rules' on behaviour*

To recapitulate, most continental laws require all land to be allocated or zoned, but only local plans and related regulations convey legal certainty as to what can be developed and where. These 'rules' are supposed to protect all interests and rights, including development rights, equitably. Accordingly, mainland development permits should only be issued in conformance with them but, to judge from the major private sector projects researched, this does not happen on either side of the Channel.

In England the shift from a judicial to a contractual model of development control may have led many local authorities to abandon impartiality in their quest for a share of betterment³⁴⁹. Notionally this shift makes the role of planners and 'rules' less central than in mainland technocratic systems. But, with mainland decisions appearing not to follow the 'rules' as required and with the extraction of benefits on the continent being largely institutionalised, such centrality there is questioned. Indeed the research suggests that the planning 'rules' are no longer central, even if they ever were. Instead, mainland authorities enjoy other significant influences over development, for example via direct tax levies, local taxes on developers and end-users, and unrelated laws and actions which impact on local land use.

Whilst considerable work has been done in individual areas related to English decision processes, e.g. the type of bargaining - political, financial, regulatory, benefits³⁵⁰, questions about power, how it arises, and how it is exercised³⁵¹, approaches to markets³⁵², and attitudes to and interests in land³⁵³,

³⁴⁸ Mafiosi are local power structures, not to be confused with organised crime 'Mafia', which is often resisted. However, increasingly, it seems, this is gaining control of the local structures, mainly as a result of drug trafficking.

³⁴⁹ See, for example, Arnold (1989), Ashworth (1996), Healey (1992).

³⁵⁰ e.g. Ratcliffe (1976), Healey (1983), Thomas (1983b), Wenban-Smith (1990), Joyce (1992), Eisenschitz (1993)

³⁵¹ e.g. Newby (1978), Saunders (1979), Simmie (1981a, 306), Pickvance (1991)

³⁵² e.g. Stretton (1978), Pickvance (1982), Sorenson (1983), Acosta (1993)

there is little information in the literature to indicate how these come together in the planning decision processes. The hybrid models described in this thesis (15.5) perhaps make a start in this direction.

Whatever the situation, the function of 'rules' seems to have changed from 'controlling' development to, at best, providing a framework for negotiating development. In this process they also become a resource, or bargaining counter, ranking behind politics/politicians, to whom they are most important. Thus Brindley's (1989, 176) prediction that in the UK "*...market led styles ... (will) ... increasingly dominate planning policy*", also seems the reality throughout Europe.

With few people really knowing much about these frameworks and the chance that "*they have been copied from somewhere else - badly*" (I-NI), it is hardly surprising that, as in Italy, "*Planning law*³⁵⁴ *has no influence on the PRG or any subsequent amendments...*" and that "*... there are no planning justifications for design ... no strategic overview of the problems of a town.*" (I-B/AB). Although plan-making activities might normally be expected to take place well before permit decisions come to be negotiated, they may actually be concurrent, for example as with case I-03, where the promoter appears to have organised legislation favourable to the project. All of this also helps explain why, as Gore & Nicholson (1991) found in England, financial institutions usually take the lowest risk of all.

Thus it would seem that Harvey's (1989) predicted shift from managerial to entrepreneurial forms of governance has already occurred, at least as far as continental land-use allocation is concerned. To-day, with continental plans deprived of their authority, technically orientated officers appear to advise more on the technicalities of procedures than planning issues, even if qualified to do so. With original plan objectives and the purpose of planning overlooked, forgotten, or ignored, they become the 'fixers' enabling the pre-permit decisions negotiated by their political masters to be implemented. They are given plans proposed by developers and agreed with politicians to find, or devise, the route of least resistance to grant of permit.

This further supports the case observations that European decision processes appear to be moving toward 'rule-free', negotiated criteria. In this political and commercial interests seem jointly able to redefine policy aims to suit particular case circumstances without necessarily any need for these to be equitable. Contrary to what might be expected from the literature, it is the English system which seems most able to provide checks and balances on the abuse of power, at least to some extent. One reason for this may be that in England putative 'policy communities' of professional officers, who are presumed to follow professional criteria, exert considerable influence over the decisions of elected representatives (Laffin 1986). But the political pressures which English planners are under could be one reason behind Nadin's (1995) belief that the UK trend is toward greater certainty and growing

³⁵³ e.g. Denman (1972), Lichfield (1980), Boschken (1982), Boddy (1982), Goodchild (1985), Rydin (1986), Healey (1988), Kivell (1993)

importance for the plan. In theory this would ease this pressure but, to judge from mainland experience, this would seem more a planner's hope than a realist's expectation.

16.7.4 *Power, policy and behaviour*

No longer do the precise designation and morphological detail of engineer and architect plans seem relevant. Instead the 'silent power' of business to influence policy outcomes can be seen in *ad hoc* policy making, 'opportunity site' designations, and large numbers of 'mixed developments'. In this, as Bacharach (1970)³⁵⁵ observes, power does not have to be consciously exercised to be present. 'Non decision-making scenarios', where particular issues are excluded at the outset, exist (Newell 1995, 21). For example, those that governments are unable to consider because of the negative impact they have upon industry. These too can be seen in the hesitancy, delay and policy conflicts uncovered.

Although there may be good market and policy reasons to override plans, many policies seem to suffer from lack of clarity themselves. This may be because of the difficulties of coping with rapid change and making formal alterations to plans and policies, or simply because negotiating positions may best be served by wide, general, even unclear policies, rather than specifics. Indeed, negotiation is often accompanied by secrecy, deliberate deception, duplication and duplicity (e.g. CE-02). Even so, Switzer's (1978, 344) characterisation of the English development control process as "*bluff, bargain, blackmail and buy*" may not wholly apply to the continent. There, consensus within decision making elites seems to be the objective rather than confrontation between elitist factions.

This highlights the bargaining power of actors, based on the control of resources, e.g. land and finance, and information, e.g. of property markets and of political and municipal 'image' needs. Those upon whose resources the success of the development process most depends are likely to be in the position of greatest bargaining strength. Therefore, to find that allocation of land for private developments turns more on decisions made on applications than on inclusion of land within a development plan and with agreement to grant a permit negotiated in advance, should not be surprising.

16.7.5 *Good, bad and amoral behaviour*

Many of the dominant actors of the 80's³⁵⁶ appear to have been mere sycophants of a much wider movement, pawns in a larger game in which Goldsmith's (1993, 76) description of how British local government has moved from the welfare-state model towards an economic-development model appears typical of the continent. Short term, profit and loss, finance 'economics'³⁵⁷ is now a demi-god

³⁵⁴ As for Italian planning laws, the engineering schools are more conservative and teach more about these than do the architectural schools. Under reform of the architecture schools a big restriction has been placed on 'planning'; only 300 of the 4,500 hours course time now being allocated to this (6.6%) (I-B/AB).

³⁵⁵ cited in Newell (1995, 21, 18)

³⁵⁶ e.g. Thatcher, Reagan, Mitterand, Delors.

³⁵⁷ a narrow definition of economics concerned primarily with finances - revenue, profits, losses, balancing budgets, returns on investment and the expertise needed to address these, etc. By concentrating on easily

and competition, the 'touchstone' of the Thatcher/Reagan years (Thornley 1991), has given rise to precisely the kind of growth coalitions described in the US literature³⁵⁸. However, across Europe these phenomena often seem led by the public rather than private sector. Competition has resulted in a 'new urban corporatism' (Dunleavy and King 1990 and others) in which reliance on outside agencies may "*compel local planning authorities to incorporate production interests into the plan-making process.*" (Simmie and French 1989, 18). Municipal resources ('rules' as well as land) are effectively placed at the disposal of commercial enterprises to lure whatever ventures will aid a town's other policies. Additionally, as Newell (1995) found in his consideration of the fossil fuel lobbies, many obligations in texts, be they regulatory, policy or permit conditions, are sufficiently ambiguous to enable powerful industry groups to press upon governments interpretations beneficial to their interests.

The degree to which different actors and agencies need to become involved in particular developments depends very much on the substitutes available to them. Additionally their behaviour and response to risk may vary according to their interests and objectives. For example, those whose interests revolve around re-development (Watson 1992) may act very differently from those with a wide range of economic interests who may look completely outside development for other opportunities (Gore and Nicholson 1991). Bearing in mind Crenson's (1971, 34) remarks that "*the stimulus response conception of power fails to account for the way in which men define their own interests and the way in which others perceive and respond to those interests*", and given that conflicts between decisions and 'rules' are linked to endemic change driven by market forces, it is perhaps not surprising to find developers devising strategies and tactics to capitalise on these. Likewise it should not be surprising to find that the non-elected, business domination of local government has led, for example, to left wing councils, anxious to promote their own local economies, to court business interests. They too are keen to demonstrate both responsible management and desire to work in partnership with the private sector.

Additionally, as cost margins are squeezed by continuing recession and property firms seek more direct support from the public sector, the relation between them and planning authorities becomes increasingly negotiative, rather than plan-based. As the greater need to compete has replaced notions of 'mediation'³⁵⁹ with a common 'master policy' of '*negotiate*' so the *municipal entrepreneurial* model of urban politics, policy making and management (15.5) has become dominant. Despite Cochrane's (1991,298) doubts, it encourages the wrong use, wrong interpretation and the ignoring of 'rules'. Regardless of probability, the fact that 'everyone has forgotten what the regulations are supposed to be for' makes it less likely that competing interests can be equitably resolved. As in Italy (after plans

measurable cash profits and monetary wealth, it excludes other forms of capital, like social, welfare, community, cultural and various other forms of resource capital.

³⁵⁸ e.g. cases E-06, E-10, N-01, N-02, D-01, I-01, I-02, F-01, F-03, CE-01, CE-03.

³⁵⁹ see for example Forrester (1987), Friedman (1987a), Healey (1988), Roweis (1983)

have been made), it shifts the focus of exploitative importance from developers to building contractors (I-N/A; I-T/C; see also (Vicari and Molotch 1990)³⁶⁰) and creates a potential false focus for researchers in that, since the main profits are diverted to contracting, contractors may become more important than developers.

The difficulty seems to be that, as Brouillon³⁶¹ asserts, *"What Governments want is to stay in power and to stay in power they have to please voters and to please voters there has to be jobs and growth and in that sense the way governments go is the way we go because development is the goal."*

However, this concern to 'develop' and to attract or obtain work, either by the municipality, developers, or professional practitioners may mask or be masked by different cultures and types of working relationship between countries. These may colour the way planning systems are interpreted, used and, perhaps, even made. As one Italian expert explained, *"... professors and researchers who propose laws are perfectly aware of the economic system BUT they too have clients. Unlike the situation in other European universities they are 'trapped - their thinking is trapped - by the system' "* (I-N/I).

Thus both inter and intra commercial collusion between political leaders, private organisations and officers makes the fundamental question of how robust any of the planning systems are in 'balancing' interests at the point of decision, a non sequitur. Concentration on 'competition' seems to be at the expense of all else, most markedly local communities and the environment. Yet if, as is argued here, by competing for jobs cities are actually trying to export their unemployment elsewhere, then should we, as Krabben (1995,232) asks, *"...favour a property system that incites local authorities ... to compete with each other in their efforts to attract companies to their respective municipalities?"* while, as Kramer (1995) complains *"...the environment dies in silence"*³⁶².

16.7.6 Conclusions

Across Europe, planning and development control 'rules' are not well known and their purpose is little understood. Often, it seems, they are perceived as either irrelevant or of no purpose. Perhaps because of mistakes in the past, continental politicians in particular today appear to have little faith in planning and are prepared to over ride plans (Field 40/49). Partly for this reason and partly, perhaps,

³⁶⁰ Part and parcel of party-business relations is the Italian system of corruption in which bribes and kick-backs are a routine part of the private-public dealings of whatever sort (Spotts and Weisser 1986) Entrepreneurs provide *bustarella* (literally 'small envelopes') to party officials to increase the likelihood of receiving building contracts or other government favours. Such payoffs are not precise *quid pro quo* arrangements that presume favourable action. They are a necessary but not sufficient basis for favourable outcomes. The system motivates people to work toward party leadership roles, while its imprecision provides officials with greater autonomy than does the analogous US system of graft and legal campaign donations. Entrepreneurs cannot 'invest' directly in a location by backing politicians who will support their zoning request for example. They must operate within a context that is far too politically and bureaucratically complex for so mechanistic an arrangement to succeed. It is part of a vastly larger system of party organisation, national-local linkages and constraints imposed by law and custom (Vicari and Molotch 1990, 618)

For a comparative account of development in the US, Japan, and Italy see Molotch (1988)

³⁶¹ cited in Newell (1995, 19)

³⁶² Authors note from conference proceedings.

because the 'rules' are perceived as interfering with cherished landed property rights, few people seem very concerned about them on the mainland.

It is against this opaque regulatory background that many personal and municipal agendas seek city growth. Often, at their root lies a quest for power - financial, competitive, technical, social, commercial, political. All, it seems, are perceived as deriving from or linked to size. Frequently it is this which can be seen as driving those with power over the 'rules' to opt for flexibility, legal or not, in pursuit of policies designed to retain or promote an 'image' linked to substance and might. An image which offers security and protection for rights and possessions.

Paradoxically it is the power and strength, which size and complexity affords these 'rules', which leads to their detail and purpose being little understood; to wide individual resentment of their interference with cherished property rights; to overlooking the protections which they should afford; and to their undoing. The 'rules' are so numerous, complex and difficult to comprehend in a holistic manner that, to handle regulatory obligations, politicians and public alike are forced to place reliance on specialists for their interpretation. Thus, widespread failure to understand their impenetrable bulk gives strength and power to those few versed in their often technical intricacies. It secures them in their service of commercial and political masters to engineer the 'conformance' of myriad circumventions. In part it seems that, in the Lukesian sense, the system of 'regulation' and rules exercises social control by creating levels of bureaucratic power. This is so even though most specialists remain little educated in their full range anyway. Consequently it seems that mainland development control has almost become a case of the blind leading the blind, with the 'rules' having little positive influence on behaviour.

In summary, as European planning practices move closer together, the influence of formal systems has fallen subject to short term economic considerations. With 'rules' frequently circumvented, equity appears to have lost protection and consideration.

Consolidation

- implications for planning, development and latter day liberal democracy -

Chapter 1 raised a number of concerns about European land conversion. Objectively, it argued, since mainland planning and development control systems embody liberal democratic principles, they should deliver justice and fairness. But, it was hypothesised, this was not happening and, to test this, research into development permit decision practices was proposed. After reviewing the appropriate and available English language literature, the hypothesis and research question were refined and a multiple case study project designed. Targeting permit decisions made between 1987 and 1993, this focused on their legitimacy, transparency and equity as related to historical rights and interests in place, i.e. those communities of interests neighbouring a development, rather than the city and citizens at large.

This thesis has reported on that research. Using an English pilot study to bench mark results, it has objectively compared, analysed and discussed these under four sub-headings taken from the main research question; *Process, Interests, Decisions and Behaviour*. In aggregate it is believed that this process has validated the hypothesis. Although varying in degree, the cases investigated demonstrated that the legitimacy of formal systems has been undermined, that permit decision processes were far from transparent, and that in practice they had failed to ensure the consideration, let alone balancing, of all interests equitably.

But these deliberations have done more. They have generated a number of, what are believed to be, important observations and theorisations. Although drawn from major private development decisions, these are seen as encompassing many issues contained in all forms of development (4.6.3). Accordingly, this chapter concatenates and condenses these analyses, and steps outside the research to consider, both objectively and subjectively, what implications these findings might hold, both for the discipline and practice of planning and for European land-use in general. To do so it links them with six main headings of concern drawn from Chapter 1; change and choice, threats & responses, tensions for equity, principles & practice, institutional anomalies, and emergent theory.

Chapter 1 counselled that, because the number of cases considered was minute in relation to the total number of permit decisions, the observations presented could only be considered indicative (1.9). However, Chapter 6 suggested that, because of the resistance encountered to the research, its rele-

vance might exceed its statistical relevance. Here, given the general consistency of the findings presented, it is felt that the thirty-two cases considered represent a sufficiently large, random and varied number to be able to draw empirically grounded (Glaser 1978) inferences as to the nature of European permit decision practices and the wider implications which they may hold.

17.1 Change and choice

In summary, earlier chapters have shown that:-

1. By itself, land cannot be planned into use. Instead, development depends upon the convergence of land's maturing circumstances with commercial and political imperatives. Powerful ideas which fuse these can over-rule regulations (13.5).
2. Time and market conditions are the only impediments to such ideas prevailing over 'rules' with, on average, between 2 & 3 years being needed from concept to permit (13.5).
3. Land conversion generally occurs incrementally at the micro level of individual sites (15.5.2).
4. The scale of local plans makes both them and the officers using them, ill prepared to address the effects of change on neighbourhood communities and less well equipped to handle individual development proposals than private sector professionals (13.5).
5. A form of de facto city entrepreneurship may be in occurring across Europe. This subjects land-use to economic criteria through which municipal actors seek to control or direct development to serve 'image' requirements (14.5), a finding supported by several others³⁶³.
6. Concentration on 'competition' seems to be at the expense of all else, most markedly local communities and the environment (16.7.5).

Accounting for these observations, it seems that since the late 1970's cities in Europe have been faced with endemic and accelerating change³⁶⁴ driven by global 'economic' forces³⁶⁵, as 'free markets' have won the ideological battle with centrally planned economies³⁶⁶. Whereas cities used to be pre-eminent within their region, that dominance is now being challenged by global corporations and markets (Lambooy 1993). Although they still contain many elements of stability, they are now by no means static (Kivell 1993, 177). In the new global economic climate, as capital migrates to the area or centre of greatest competitive advantage (Jolliffe 1993), land-use is increasingly influenced by markets and those holding the levers of power. The import of these dynamics is discussed below

17.1.1 *Intervention, control and competition*

At the European Community level, spatial planning is increasingly recognised as playing an important role in helping to manage this change (Nadin, Shaw, and Westlake 1995), while across Europe at the local level, planners and their political masters are seen to be struggling (Williams 1996) to address - 'to balance' - a range of local structural and wider economic changes impacting upon the fabric of their cities. Such changes have coincided with a new realism over state intervention, the costs of so-

³⁶³ see, for example, Healey (1992b), Law (1993), Glasson (1993), Haughton (1995), Ward (1994a), Paddison (1993), Jacobs (1993), Boviard (1993)

³⁶⁴ see, for example Albrechts (1994), Balducci (1995), Batley (1991), Beauregard (1990), Blowers (1993), Brown (1994), Cheshire (1989), Cranfield (1994), Dicken (1992) Hammer (1993), Hart (1993), Healey (1988), Hobbs (1989), Kivell (1993), Lynch (1995), Murray (1994), Ward (1994b), Whitehand (1990)

³⁶⁵ see for example Amin (1994), Ball (1983), Beckerman (1995), Boviard (1993), Brown (1993), Coles-Ritson (1995), Dicken (1992), Evans (1985), Gibbs (1993b), Hanushek (1990), Haughton (1995), Jacobs (1995), NEF (1994), Paddison (1993), Pickvance (1990), Richards (1994), Toman (1994), World Watch Institute (1993)

cial and welfare budgets, a decline in spending by national governments, the public spending constraints of the Exchange Rate mechanism, and the fears and opportunities of the single market (Berry and McGreal 1995, 4). These also imply some level of inter-urban competition in activating markets based on supply rather than demand side mechanisms. These shifts have encouraged growth in those activities which have the strongest local capacity to enhance property values, the tax base, the circulation of revenue and employment growth (Berry, *op cit.*). But the plans and rules available to tackle the unforeseen circumstances delivered by constant change, appear inadequate for municipalities to do so equitably.

For example, as safety, health, welfare etc. in development have become safeguarded via technical standards administered by technical (building) departments, public perception of the purpose of and need for 'planning' and land-use control has receded. Furthermore, mainland separation of the making of plans and rules from their application without training their administrators in at least the principles behind these plans and 'rules', has led to their relevance being compromised. As a result 'Development Control' has been reduced to accommodating and adjusting the 'rules' to facilitate other contemporary policy and power imperatives in response to growing regional, national and international 'competition'.

By focusing the use of planning's regulatory instruments on economic objectives, development control systems have overlooked the need for broad agreement over controls and common-cause³⁶⁷ in society.. This has been replaced by common-cause between developers and politicians to achieve their joint need to escape from, in their eyes, the oppressive sterility of 'rules' which hinder their ambitions. Such shift may be accompanied, even encouraged, by central government pressures on local administrations in support of production (2.4.4, 17.2.3) None of this should really be surprising for, as Alfred Marshall³⁶⁸ argued in 1884, much of industry is still footloose and locates anywhere that labour is available; with the community having to pay the social costs of poor health and poor housing.

17.1.2 *Change and equity*

On occasions this thesis has touched on the legitimacy of the processes by which legal local plans are made on the continent and upon the extent to which they are comprehensively objective and unbiased. While this was, in a way, incidental to the object of the research, this being specifically concerned with permit decisions, allowing that, theoretically, some aims of legal plans are the provision of stability, security and protection for the rights for members of local communities, *prima facie* any measure which changes them interferes with these aims. An important question is, whether or not such interference is adverse or beneficial to those communities.

³⁶⁶ see e.g. Stoker (1988), Murray (1991)

³⁶⁷ the integration of disparate interests and capacities in pursuit of mutual objectives which transcend individual aims; at a lesser level this may be the joining together of people or organisational effort for common benefit.

³⁶⁸ cited in Hall (1982,48)

Although not clear cut, what seems to be happening is that, when plans are changed and regulations circumvented, local benefits are transferred to a wider community. Transmogrified by the process, these benefits may not be in the same form and some residual advantages may remain locally, even if in mutated form. But, in addition, the local community also gains from at least some of these new 'benefits' along with the wider community. So, the neighbourhood loses part or all of one asset - if rights, certainty, protections, etc. can be termed assets - and gains some part of something new.

Now this 'something new' would not be being brought into existence unless it was, overall and in the eyes of its promoters, of greater 'value' than that which was being changed. So, in considering equity three new questions now arise: first, how this greater value is distributed, second, whether this distribution is equitable, and third whether the local community share is at least equal to the value of that which they lose as a result.

This presents a problem of comparison, for the value elements are not completely the same. That created appears to be judged in terms of image, political kudos and money, but that which is lost may be seen more in terms of the qualities of environment and life, the preservation of community, and cultural and ethical worth (2.3.2, 17.6.2). While money is a convenient means of measurement, it is too limited for these and most other social and welfare purposes. Like property prices, which may remain static or go up or down, the danger in its use is of *'knowing the price of everything, but the value of nothing'*³⁶⁹.

17.1.3 Markets, choice, infrastructure and institutions

An important manifestation of both these changes and the difficulties referred to, appears to be new infrastructures. Often provided in pursuit of local economic development, these are seen as a common influence for land-use change. Roads, for example, were key considerations in many of the major private developments considered. But the concern of municipalities, promoters and end-users for access and mobility appears to discount the impacts which often related increases in land values may have. One example of this is the way in which higher land prices may disable members of local communities from participating in what becomes a game for those with major power, like national and multi-national organisations. Thus, not only does the control of resources and power become even more concentrated, but markets become more restricted and the ability of local concerns to grow and compete, more limited..

Drewett *et al* (1992) also draw attention to this, contending that local economic development strategies have been too traditional in creating jobs by concentrating on improving physical infrastructure and land use. But their analysis perhaps does not go far enough. To grow their businesses, many manufacturers pursue volume production methods. Sales are increased by reducing prices. Lower prices enable consumers to spread their disposable incomes across a wider range of products. As

³⁶⁹ From Act 3 of *Lady Windermere's Fan*, Oscar Wilde, 1892 (definition of a cynic)

markets become satisfied, producers turn to product differentiation and/or introduce new products to lure customers. Thus a greater choice of goods is offered to consumers whose spread of purchasing power has also increased. Following the example of manufacturers, retailers have also adopted marginal revenue approaches to their businesses. For them the 'economies of scale' have meant providing larger and more accessible premises to deliver this enlarged choice, while their maintenance of profits has demanded 'volume throughput'. Similar analyses can be applied to many industrial and commercial sectors and now seem to dominate property end-user thinking. This may be seen, for example, through superstore and cinema operators who need high numbers of repeat customers; or hotel and leisure companies who rely on attracting business and tourists in volume. Indeed, mass retailing itself is becoming a family attracting, mass leisure activity.

Sites located to serve these demands promise high profits in operation. To facilitate and take advantage of these offerings, residential estates, industrial, commercial and retail premises must be located for fast, easy access to city and countryside, if not national and international markets and destinations. Thus, with the possible exception of housing for sale, marginal profit considerations may be overtaking capital and gross revenue profits on land conversion and development, as the main commercial thrust. True, in part marginal profits may translate into capital site values, but these are the domain of developers not end-users. As a result, while use values provide a basis for development values, they are not necessarily reflected in capital calculations³⁷⁰, i.e. the need for, say, mass retailers to capture customer throughput attaches a value to the retail market share potential of a site which may be significant for the retailer's business but unrelated to conventional development value calculations. In consequence 'choice' may be one of the driving forces behind new infrastructure provision, thereby leading to other pressures for unplanned land conversion. It may also be creating the basis for higher municipal demands on the funds generated from development (see 17.3) by these 'new institutions'.

This is not to say that there are not other forces at work. It is true, for example, that as Drewett *et al*, *op cit.*, point out, as European cities focus on science and technology, so their role as centres of production is being superseded by knowledge-based activities. Thus (entrepreneurial) cities are becoming more pro-active in initiating policies which inter-relate with global knowledge networks. In so far as these improve quality of life and connectivity to the network of major metropolitan centres, Castells (1993) suggests that, together with informational capacity, these key values will determine the productivity and competitiveness of cities in tomorrow's economy. This helps explain the importance placed on 'image' in land-use decisions and why, faced with an inability to adapt out of date plans to changing circumstances, there exists both policy need and personal motive to over-ride plans and violate restrictive 'rules'. It also helps explain why environmental and aesthetic considerations only appear important when they have marketable value.

³⁷⁰ Indeed the superstore operator in case E-05 suggested that they tried to keep use value secret.

There is a further point which emerges from the research relating to the power of market forces. It seems possible that the CE countries considered may have leap-frogged the direction in which the MEU countries appear headed. Policies to introduce market economies there have been attended by a desire to create flexibility, remove restriction, and encourage entrepreneurship, experimentation and innovation. An interesting speculation is that MEU progress to this end may have been checked by the more established presence of market forces, whereas in Central Europe pent-up demand may be causing consumption's 'choice' mechanisms to be weak or absent in providing the checks and balances established in developed economies over many years. If so, this may provide another reason why extant MEU planning systems have not been formally reformed even though informally ignored. The market mechanisms themselves may act to hold excesses in check, permitting *laissez-faire*, negotiative planning to operate relatively efficiently - at least in conventional economic terms.

17.2 Threats and responses

As has been shown, predetermined plans and regulations seem unable to address the threats present in today's changing social and environmental dynamics. Despite the rationality with which 'rules' may have been (or still may be) conceived, reliance on the use of such instruments to deliver equity faces difficulties in responding to this change. These difficulties tend toward general systems failure, as rigid frameworks condition the approach taken to land-use. This approach creates a mentality restrictive of enquiry. It stifles both the questioning of the conceptual realism of these systems and alternative ideas (17.5, 17.6). The way out which is taken is to ignore and override the 'rules', resulting in planning principles being discarded and/or lost. As shown in earlier chapters:-

1. Increasingly, political control and direction is becoming subservient to commercial organisations (15.5.2)
2. Politicians and professionals have aligned their interests with those of business and commerce in the pursuit of municipal entrepreneurialism in which individual development permits are negotiated on an *ad hoc* basis (15.5.1).
3. Where municipal and/or other authorities take a direct interest in implementation, the focus of profits is shifted from land to the development itself. In this way the function of the state has been re-orientated to support 'the market', lending increased power to the interests of production over consumption (14.5)
4. More evident on the mainland than in England, and possibly equally present in other functions of governance, the level of expertise needed to work with increasingly complex land-use and development control systems excludes many people from playing a meaningful role in the permit decision process, making this less transparent. This emphasises the role of professional actors, who often enjoy statutory protections, giving them increased influence and importance (15.5.3).
5. In all systems, the power and influence of personal and corporate networks able to secure secrecy are an important practical consideration (15.5.2).

The major threats here are of 'business' replacing 'politics', of 'free market choice' replacing 'plural democracy', of 'private professionalism' replacing 'professional bureaucracy', and of 'planning by contract' replacing 'legislative certainty'. These give rise to further threats, as discussed below.

17.2.1 *legitimacy and due process*

As a culture of negotiation and bargaining has developed, approaches to municipal decision-making

may no longer conform to the theory which legitimates them, if they ever did ³⁷¹. Planning decisions have become vehicles for other policies and the resolution of policy conflicts has undermined not only the 'rules' but also any aims for which they were established. Far from a plurality of individual freedoms being protected, it is the interests of small groups of power elites which are now secured as they determine development outcomes. In this sense the observations of Simmie (1974), (1981a), (1989), Saunders (1979; 1981), *et al* on English planning are replicated on the mainland. Siegan's (1972) view prevails, planners are subject to the political pressures of those who employ them and land use regulations are more a tool of politics than of planning.

But planning's outcomes and impacts are not totally unpredictable and irrational. It is just that they have been converted into being a function of dominant, finance based, economic rationales. In consequence the danger is that liberal democratic traditions, which supposedly champion participation and equality, are not upheld, even if they ever were. As decisions show little regard for fairness, the signs are that despotism is, in all but name, extant. Gone, maybe, are the aristocrats and 'God-given' royal bloodline authority, but this has merely been replaced by *entrepreneurial despotism*, be this of politics, commerce, or the professions. In this sense the historical quest of liberation through liberalism has both succeeded and failed³⁷². Through free markets an individual may attain position, but the codified, legislative, plan led mainland systems, intended to protect equitable freedoms, are shown as corruptible and not to constrain manipulation by controlling elites.

17.2.2 *Transparency*

Almost axiomatically, it seems that whenever government and commercial interests coincide in the property development arena then, in the Marxian context, decisions will tend to support the notional status quo. But the means which may be necessary to achieve this interfere with due process and upset the delicate balance of transparency, freedom and equity associated with notions of liberal democracy. Although this may secure some short term advantages, it may progressively undermine this status quo, replacing or redefining it with one or more unclear, undemocratic alternatives (see 17.2.4).

This threat may be seen through the cases. Many of these show how notions of participation in planning, whether in plan making or permit deliberation, have been abused and treated as a vent for public feelings. In many ways the cases indicate how 'transparency' itself may be abused and mirror Simmie's (1981b, 282-3) English findings that the more important characteristic of development control

³⁷¹ While it is not known what approaches were adopted in earlier times, it is presumed these were conformance orientated.

³⁷² Historically, liberalism connoted a set of radical ideas that liberated individuals from a hierarchical, feudal society, where one's position in the social order was preordained, to a modern world in which personal achievement and ability, particularly in the market place, defined an individual's station in life (Kramnick 1981). The liberal battle was a celebration of the individual against the confusing norms of custom, tradition, and religion. As a result, the liberal inherently distrusted the imposition of any authority over the individual and the forces of the marketplace. Although classic liberalism could accept limited state power to ensure the protection of property and the fruits of one's labour, it was, at heart, an essential anti-statist philosophy (Markovits and Silverstein 1988, 5).

is the level of corporate integration between private organisations and the state. Yet under present systems of planning, as they are increasingly being (mis)directed, the arguments for participation, as advanced from Whitaker (1968) and Skeffington (1969) through McAuslan (1980) to Young (1995) and Bailey (1995)³⁷³, still hold. Under the conditions described here, to achieve real local participation will require a change in planning practices. Based on the evidence presented, it is likely that this will only ensue from an EU level consideration of planning philosophy (Benfield 1994a; 1994b).

17.2.3 *The ownership conundrum*

Just as the state may have reinforced its support for 'production', citizens, who are also consumers, have done the same. Nominally they own much of 'production' via pension and insurance funds. But, as concentration on 'job' policies provides a *raison d'être* which encourages the industrial, road, vehicle, distribution and commuter lobbies *et al* to lead these 'production' interests, the danger is that citizens become increasingly enslaved to the powers of international finance. This emphasises various references made throughout this thesis to threats present in allowing, or directing³⁷⁴, contemporary 'economic' policy to become disconnected from social welfare, and planning from the local community, as appears to be the case. Land betterment values, land-ownership, and professional knowledge and competence to address this problem have also appeared as major concerns. Whilst not addressed here, all suggest that other mechanisms may be needed to achieve land-use control objectives (but see 17.2.4, 17.2.5).

17.2.4 *The environmental imperative*

Ophuls (1977,3) believes that "...liberal democracy as we know it ... is doomed by ecological scarcity" which will create "... overwhelming pressures toward political systems that are frankly authoritarian." (p.163). Confronting such alarms, and representing a widely held view, Nadin (1995) foresees that, "...in an attempt to protect the natural environment...", environmental considerations and spatial planning will develop beyond regulation into strategic thinking. Unfortunately this may raise more questions than it answers - of definition, direction, access, ownership, and benefit. In contrast, Harper & Stein's (1995,10)³⁷⁵ view may be simplistic. This sees the environment as an important, though not exclusive, concern and argues for planning to take an incremental approach to these issues. Both views are encompassed in the suggestions made in 17.2.3.

In fact, released from the ossification of political and economic evolution imposed by the capitalist-communist ideological cold war stand-off, a long overdue re-think of planning and many other issues

³⁷³ see, for example Bailey (1975), Bailey (1995), Balducci (1995), Benveniste (1991), Coote (1995), Evans (1995), Ferris (1972), Fleischmann (1989), Forrester (1987), Grant (1990), Hayton (1995), Hayward (1978), Healey (1983), Hoggett (1995), Horrocks (1994), Lavers (1994), Markovits & Silverstein (1988), McAuslan (1980), Pateman (1970), Pinfield (1995), Saunders (1979), Schumacher (1973), Simmie (1989; 1974), Skeffington (1969), Whitaker (1968), Young (1995)

³⁷⁴ Arguably both local economic policy and planning may have always been (semi) covert instruments of centralised power for supporting (productions) status quo.

³⁷⁵ They point out that poverty, social inequality, and racism should not be ignored.

has commenced. The growing volume of literature on, for example, Green Politics³⁷⁶, Alternative Economics³⁷⁷ Direct Democracy³⁷⁸, etc. evidences this. Today, planners are being seen as potential 'champions' of community interests (Poulton 1995,12) and of the environment (Benfield 1994a; Kramer 1995), while new concepts for planning are emerging. While Albrechts' (1991) suggestion that these will involve a shift from planning for capital to planning for society, is generally welcome, there is a danger that this may be either simplistic, or naive, or both. Without addressing the roots of conflict (17.3), such comment risks becoming palliative. Interpreting society's 'needs' in conventional terms may allow capital to subvert emergent ideas to its own cause, thereby supporting the status quo.

This need to transform planning systems is increasingly recognised, though not necessarily for the same reasons. In the UK, for example, Adams (1994, 219) accepts that present development plans have been marginalised as an active form of intervention in the development process. In doing so he identifies a resultant upsurge in political determination to link development control more closely with development planning. This, he envisages, would entail public inquiries becoming even more dominated by professional expertise. However, this is a prospect which hardly seems encouraging of greater access, participation, individual freedom, or equity. Such thinking also seems to overlook the way in which the role of planners and planning as a profession may need to change (17.6.2). Adams also proposes (*op cit.* 224-227) an '*agenda for practice*' in which development plans drawn by planners will provide '*vision*' for state intervention, which developers, *et al*, will follow. Apart from re-introducing Hall's (1982, 80-1) 'omniscient ruler' planners, his approach, like that of so many commentators, seems economics-centred³⁷⁹. "*Unless*", Adams argues, "*statutory local plans are reformed to provide an effective basis for the promotion and co-ordination of development as well as its control, their costs, and the time and effort they consume, may increasingly be considered poor value for money.*" But such thinking carries a further danger. It appears not to grasp the fact that agendas may be secondary to power structures. As Arvil (1967) pointed out almost 30 years ago, tinkering with the system merely papers over the cracks.

17.2.5 The ethical stance

As variously argued herein, given the research findings, there would seem to be a moral obligation to re-appraise the philosophy, principles and purpose of planning and development control. Harper & Stein, *op cit.* approach such issues by advancing a hypothetical situation. "*What*", they say "*if we believe that an environmental crisis is imminent, and rational persuasion will not get the behaviour changes necessary to avert the crisis? Could we then be justified in advocating a radical paradigm*

³⁷⁶ see for example Ash (1992), Brown (1993), Deblonde (1995), Dobson (1993), Gibbs (1993a), Jacobs (1991), Lundmark (1995)

³⁷⁷ see for example Chichilnisky (1994), Clark (1993), Douthwaite (1992), Jacobs (1993), Robertson (1974), Robinson (1995), Strong (1995)

³⁷⁸ see for example Cadogan (1974), Hoggett (1995), Horrocks (1994), Will (1993)

shift if it would cause people to modify their behaviour? Suppose this claim is true (even though we don't believe it is), the problem is then that we would have two classes of people: the elite, for whom the shift is justified on moral grounds - it will save our world - and the masses, who are unable to grasp either the urgency of the crisis (the rationale for change), and who are being manipulated into doing the 'right thing'. This would be profoundly undemocratic. History should make us very suspicious of those who want to dominate the world in order to save it. They are often more interested in the domination than the salvation."

Although such elitist reference to 'the masses' may imply ignorance, their caveat is a good one. But the response drawn from this thesis and the general tenor of debate is that there can be little doubt that one or more paradigm shifts are currently being experienced both in planning and in the world at large, caused by factors which leave out justification. As the research shows, these shifts are occurring whether or not they *should occur*.

If one accepts Harper & Stein's, *op cit.*, assertion that the distinction between justification and cause may be seen as a continuum between, at one end, rational persuasion and, at the other, physical coercion, behavioural conditioning, etc. ; then toward the centre lies non physical coercion, e.g. advertising, propaganda, ideological distortion, etc. Based on this research, it is argued here that, via this central area of 'persuasion', society at large has been and is being manipulated, induced by the forces of capitalism to accept a narrow, profits centred definition of 'economic' as right and to play by negotiable rules in pursuit of this. In consequence society is in danger of losing its pluralism, being coerced and conditioned to accept the domination of 'market competition' in which there can be few winners but many losers³⁸⁰. In Healey's (1992a,159) terms there has been created a "...naive belief in the power of democratic discussions, while the forces of global capitalism ever more cleverly conceal the ways they oppress us".

'Equity', it seems, has been usurped by 'competition' around which elite groups form and which Harper & Stein, *op cit.*, seem to overlook. Yet acceptance that rational persuasion will not work on the masses, as they seem to suggest, does not require surrender to either present or alternate elites. Instead, through an improved understanding of how these elites behave, it demands, for example, the conditions for sustainability to be established and to then cause all elites to justify how their (intended) actions will satisfy these conditions. Doing so, it is suggested here, will require a return to 'equity' and a revisiting of planning's philosophical purpose.

In the long run maybe Marx will be proved right, capitalism cause its own demise, and the pyramid of power become inverted. But, in the meantime, on planners rests at least part of the burden of enabling *communities* to decide what kind of world *they* want to save. To do so they need clear, philosophi-

³⁷⁹ e.g. MacLennan (1995, 407)

³⁸⁰ Cheshire (1991) has already identified numerous cities across Europe that have done badly as well as those that have improved.

cally grounded, planning principles to guide them.

17.3 Tensions for equity

While Hobbes' (1651) "war of all against all" arguments for statal supremacy still reverberate, and the collective welfare and 'social contract' concepts of Rousseau ((1712-78)) continue to inform democratic movements, history has moved on. Albeit that many of their contentions may still hold value, for any 'rules' to be effective they increasingly need common-cause with those who are required to follow them (17.1.1). The 20th Century's compromise invention of 'liberal democracy' is itself in a state of flux. Beyond imposition and social control, 'rules' need to be integrated with that common sense of purpose which persuades well informed, socially aware people to surrender their individual sovereignty to the greater cause.

However, with policy, technical regulations and planning specialisms considered separately, both 'rules', their controllers and their subjects, are accorded disparate power, knowledge and ability. In this situation, and concerned more for their own and clients' interests and ideas, professional actors - architects, lawyers, planners - appear to have failed society. Today their actions create uncertainty. Paradoxically, this places greater reliance on them to argue out and negotiate permits while leaving bureaucrats to fight a rearguard action in defence of the indefensible. As shown earlier:-

1. Giving local plans authority unto themselves appears to release mainland officers and politicians from many responsibilities and means that no one 'speaks for the plan' when decisions over un-planned applications are being taken (15.5.3).
2. The contemporary, policy driven 'inventions' used by Continental authorities to escape from what they see as inappropriate 'rule-bound' frameworks, appear to have little regard for the objects of extant systems (16.7).
3. Local land-use and development decisions are not especially party political. except when this touches on national issues. Local politicians are mainly concerned with this when it touches their personal interests rather than those of neighbourhood citizens (14.5.4).
4. While the profits arising from land conversion are important everywhere, they are separate from those arising from the construction, marketing and end-use activities of property development. Because mainland authorities are more directly involved with such development than those in England, potentially property markets and project profitability exert greater influence on continental permit decisions. Thus, the control and distribution of combined betterment and development profits may be more powerful if used to motivate and control behaviour on the continent than in England. This makes the whole mainland process more susceptible to corruption (16.7.2).

Thus, a range of conflicts of interest and other tensions which confront those responsible for granting development permits, are made manifest, as discussed below.

17.3.1 *Developers -v- End-users -v- Professionals*

New tensions may be appearing between actors. For instance, traditionally the bringing forward of land for development and the obtaining of planning permits has been the domain of developers, whether private or municipal, and their advisors. But as the size, impacts, and overall significance to a city - financial as well as environmental - of some developments increase, so certain end-users are beginning to adopt the developer's role themselves, even though conventionally they lack development and planning expertise (see 17.1.3). Consequently, to retain their position developers either have to

go for bigger projects, larger sites, greater profits, and closer relationships with municipalities, or seek niche markets, etc. Skilled, knowledgeable, professional consultants are naturally attracted to them and, as developments become larger and/or more specialised, so professional expertise increases in importance, securing the position of those possessing it as members of the decision making élite. Here they join the ranks of those who seem to benefit most from such decisions - the landowners, developers, contractors, wider city interests (as distinct from neighbourhoods), and higher authorities. If, as posited (17.1.3) capital profits are becoming less important in property development than revenue streams³⁸¹, speculative projects could become promoted by professionals on a contingency fee basis. This would be a further way for them to achieve both a greater share in the available work and in the rewards of winning permits. Indeed several cases already point to this, e.g. E-02, E-11, I-04, N-02, CE-03 & CE-04.

17.3.2 *Culture -v- Competence*

Following their Lieden-Oxford comparative study (1.6.1), Thomas *et al* (1983) advocated the UK system for its flexibility, ability to address real planning issues, and transparency. Yet English planning is embedded within the social sciences rather than the design professions, as on the continent. This presents problems for such advocacy. Stevens (1990), for example, points out that, since studies of architects and architecture have, on the whole taken remarkably little account of the economic and social context within which they work (let alone reaching for any measure of intergenerational equity, 1.6.1, 17.6.1), continental style urban designers seeking to influence planning practice in England face particular difficulty. Thus the apparent 'continental drift' toward English style 'flexibility' in planning systems may be illusory.

Additionally it seems that, on both sides of 'La Manche', permit applications and decisions remain rooted in the base needs of present day economic competition, financial accounting and corporate profitability (17.1.3). Access to decision-making seems to continue to be reserved for those having direct or profit interest (17.4), and theories about architecture, especially as it relates to planning and development outcomes, remain weakly developed (Whitehand 1993, 308). It therefore appears inappropriate for the English system to be adopted on the mainland and vice versa.

A further reason is that mainland countries seem to lack a 'planning' culture. This is produced in England by treating planning as the distinct controlling discipline³⁸². Likewise they lack the professional skills and expertise built up and utilised in practice in England. Although this may be changing, how this becomes manifest is questionable since, as towns, cities and countryside compete in the race for economic supremacy, England itself now faces a danger of losing this. In this race it would seem that the ability to '*negotiate well*' can cause plans, principles and policies to be discarded. Ac-

³⁸¹ It may be that, since land markets appear less speculative in mainland Europe, capital profits may also be less important there.

³⁸² This ignores counter arguments that English planning cannot be a distinct discipline in itself, but must

cordingly, even though English planners learn about *negotiation* and many have become skilled in its art, it is a race to which *de novo* continental systems seem better suited, with their politicians seemingly better versed in this than their English counterparts, be they politicians or planners. Against this background of many and varied tensions, for Thomas *et al's* advocacy, as noted above, to be relevant across Europe, would seem to require more of a disciplinary sea-change than merely a change in systems.

17.3.3 *Political choice -v- Market choice*

There are those who see the planning process as less capable and efficient than markets, which they view as the best way to ensure prosperity, the rule of law, and liberty³⁸³. In fact 'free markets' (if such things exist) may be challenging, if not presenting a direct alternative to, democracy.

Most present day political systems, including Communism, were devised in an era when concern centred on satisfying peoples need for goods and services by improving, encouraging, directing and/or controlling their production and distributing them fairly. However, in the countries considered, today modern productivity is outstripping these demands (17.1.3). In consequence, concern has shifted from increasing production to maintaining this, in order to retain and/or attract the accompanying jobs and tax revenues. One might argue that the 'production problem' has been solved only to be replaced by the 'consumption problem'³⁸⁴ with, as markets and marketing becoming increasingly important, their representing far more immediately and directly the needs and responses of consumers *qua* wider electorates (17.3.5). Whether or not this also reflects neighbourhood interests, or even the *public interest*, is another matter.

17.3.4 *Private rights -v- Public rights*

In the English public policy-making context the *public interest*³⁸⁵ is synonymous with the national interest³⁸⁶ (2.4.2). In contrast this thesis has been concerned with local community interest, or historical interests in, and the sustainable quality of, place (1.7, 2.3, 2.4, 17.6). Equating these definitions with rights exposes fundamental tensions between national rights, community rights and citizen (or private) rights. As Healey (1983, 79-80) explains of England, via DoE circulars and guidance notes, "... central government appears to be upholding the principle of open government, and the rights of

defer to a range of other disciplines, perhaps merely specialising in co-ordinating the use of these.

³⁸³ Simmie (1993, 10) derives these from the collective works of Jacobs (1965; 1990), Banfield (1974), Siegan (1972; 1976) and the philosophical and economic critiques of planning of Friederich von Hayek (1944; 1960; 1982) and Milton Friedman (1962; 1980).

³⁸⁴ This implies that, under conventional economic models, having satisfied societies basic production needs, investments in plant needs to continue to produce. Unless 'excess production' is consumed, enterprises will fail, jobs lost and economies decline. Full consideration of this concept would be too lengthy for, and inappropriate in, this thesis.

³⁸⁵ see Sorauf (1957), Elkin (1974), Ross [], 1991 #972)

³⁸⁶ It reflects an underlying holistic social theory in which the interests of society as a whole are argued to transcend narrow sectional interests, and thus dictate specific policy approaches. Society is held to comprise interdependent parts with the health of the whole contingent upon the 'correct' functioning of the parts (Simmie 1981a, 100-101)

the citizen. It is also, of course, upholding the rights of the property owner to object to proposals. Thus there is a strong suggestion that central government is seeking to limit the extent of intervention in private property rights which some local authorities may seek."

In the main the research findings evidence these tensions. They also highlight the conflict between public and private rights in property (3.2), since it is part of the nature of rights that they cannot conflict (Fairweather 1992). Nowhere does it seem that these conflicts have been satisfactorily resolved. Seemingly present more at local state than national level, any attempts to resolve them appear to lack consistency. For instance, some of the French cases give clear examples of private property rights being protected³⁸⁷, whilst others undermine these³⁸⁸. Elsewhere support for municipal and/or politicians' objective/s may include partial transfer of private rights, even to other private interests.

Yet none of these actions display anything which can be construed as 'standardised fairness'. All seem to support local ad hoc policy rather than pursue any particular political ethos, making 'rights' of whatever type appear only important if they aid contemporary local state objectives, these being justified as in the '*public interest*'. Thus, while reinforcing the need to re-examine the philosophy and principles of planning (17.2.5), the cases also demonstrate that this must also address these conflicts.

17.3.5 *Politics -v- Commerce*

Here, perhaps, is the nub. In theory political parties claim to support concepts of 'moral goodness'. But in practice politicians appear to undermine such ideologies. One reason for this maybe, is because politicians who talk about complex issues and difficult choices do not win elections. Yet the issues of environment and sustainability which have been growing in importance since the early 1970's appear far more complex and to entail more radical critiques of industrial societies than, say, Marxism (Orr 1992,69) (17.4). Furthermore, any efforts to address these issues are hampered by the lack of a readily identifiable 'enemy' for established parties and politicians alike. In part this is because, by fighting various battles over production, they have effectively promoted producers, endorsed consumption and encouraged consumers (17.1.3)

But, as Harper & Stein (1995,4) counsel, switching to a new paradigm for planning involves seeing the world differently. And this, as Ross (1995) might argue, involves such a radical change in the standards of measurement, in the range of questions and answers and in the lexical structure of the perceived world, that those with different paradigms literally live in 'different worlds'. Indeed, as Kuhn (1970) points out, "...we are prisoners caught in the framework of our theories, our language", so much so that different paradigms become unintelligible to those who have not *converted* to them (Harper and Stein 1995,9-10). This presents any move to address planning's future which involves re-assessment of the philosophy and principles upon which it is based, with an uphill struggle. In itself this seems worthy of further investigation.

³⁸⁷ e.g. F-02, F-05

17.4 Principles and practice

Chapter 1 suggested that an improved understanding of whether practices were equitable might help the EC's need to identify appropriate tools for the assessment, preparation, and control of urban planning (1.1), or indeed, as the Adam Smith Institute (1983) argued, to enable land-use regulations to be modified, overruled or ignored to enable more equal competition. In fact, as has been shown, this is already the informal European norm, although whether it secures equal competition is almost as doubtful as the ability of planning systems to deliver equity.

It is not that trained planners are unable to understand and cope with the complexity of city life, as argued for example by Jacobs (1965) and von Hayek (1982), although this may be true (17.3.2), or that because of the characteristics of man and society it is not possible to solve serious problems by rational management (Banfield 1974), although this is more certain; but that the roles of planners and the functions of urban management have been displaced by rapid, *ad hoc*, political responses to free market enterprise via negotiation. Such displacement, it is argued here, has been made possible through planning's lack of, loss of, or shift in, principles, purpose and agreed philosophy, especially in mainland Europe. As previous chapters have argued:-

1. The theoretical separation of mainland legal plans from political interference is not observed and officers who theoretically should enforce these are often directed to find ways of circumventing them. This means that the transparency provided in theory by the 'rules', is lost (15.5.3).
2. Because of the difficulties in coping with complex rules, rapid change and the wish to retain flexibility, land-use and related policies appear to be left unclear and non-specific (16.7.4)
3. The premise that legal plans predetermine development appears to discourage the keeping of records, of maintaining interests in change and the ability to monitor it, and of the development of planning knowledge. Collectively these inhibit an understanding of planning principles, plans and property related markets, and hence land-use policies. This limits ability to respond to unplanned proposals, throwing decisions over them onto *ad hoc* negotiation (15.5.3).
4. Planning 'rules' are no longer central to the grant of development permits. Their function has changed from controlling development to providing both a framework and bargaining counter for the negotiation of permits with which plan making is now often concurrent (16.7.3).
5. The 'public interest' is being attached by commercial and government interests and redirected to serve agreements negotiated between them, over-riding 'rules' established to secure justice and fair treatment for individual citizens (14.5).
6. The distribution of urban resources and gains from land conversion rests firmly in the hands of elitist groups of property smiths! It is their interests and not community issues which shape land conversion and use (15.5.2).
7. Finance, government and professional interests, in that order and strongly influenced by personal agendas, dominate the grant of development permits (14.5).
8. Permits for important developments are frequently negotiated in advance of any application for these being made. Due to their different systems, these proceedings appear more transparent in England than on the mainland where, for both commercial and political reasons, negotiations are generally kept under a veil of secrecy (14.5.3).
9. Both cultural considerations and structural arrangements contribute to the difference between English and Continental approaches to planning and development control and the roles of actors within these functions. Despite apparent convergence between these systems, these remain (14.5.2).
10. The education, capacity and authority of English planning officers may have resulted in plans and related policy now having greater influence over the grant of permits in England than on the Conti-

³⁸⁸ e.g. F-01, F-04

ment (15.5.1) with English systems appearing more robust than their mainland counterparts (15.5.2).

Accepting that planning is political, it is believed that this thesis goes a long way toward answering Boviard's (1993,31) call for a better understanding of the political decision-making processes (17.3.5). In doing so it has identified the groups which these processes favour, the extent to which decisions are political rather than managerialist-driven, and the degree to which they are purely symbolic in political terms. It has also indicated various reasons why Local Economic Development initiatives are adopted at national and local levels (17.1). Cynically it might be argued that, far from following good planning principles, European spatial development now depends more upon new, informal, practical 'principles' of land-use exploitation.

17.4.1 *Seven 'principles' for exploiting European land conversion*

As described, two similar hybrid models of the development decision process appear to be emerging across Europe (15.3). At their core, highly informal corporatist relationships (Simmie and French 1989, 20) are arranged in three orders of priority: an 'inner triumvirate' of ultimate *decision takers* whose interests are paramount; an advisory 'support team' of *decision makers* aided by *decision facilitators* to assess essential considerations and find the routes to satisfy these; and a group of 'resource providers' who are de facto *decision influencers*. Under these hybrid processes, applications and decisions for exploiting land conversion seem guided by 7 informal 'principles':-

i) The principle of remoteness of decisions

Decisions in plans, especially on the continent, are often fairly remote from permit decisions. Both they and their makers may also be remote from the communities which they affect. Furthermore, those planners or officials involved with permits may have little specific interest in the plan, particularly on the mainland. Consequently, notions of the plan protecting the aggregate of *public* and *national* interest - temporally, qualitatively and quantitatively - are found wanting and open to exploitation.

ii) The principle of disciplinary self delusion

All planners know that rules are circumvented and/or not used within the spirit or intent of the law. Even so, they all live in hope that the plan will prevail, rather than the reality that it does not and, maybe, cannot. (Field 33/7) This is because many professionals dealing with development applications may have been educated to believe that, as guardians of the 'rules', the efficacy of the system is in their hands. Thus, they always wish to believe in and support the system. Consequently, even though many of them may have come across circumventions in practice, they choose to believe that these are special or exceptional cases. To maintain their self esteem "*they live in the hope that planning works, ignoring the realities*" (Field 34/7). Needing to believe this, they claim that it does. Hence Lukes' observation (16.7.6) is given substance.

iii) The principle of powerful ideas

The manipulation of 'rules' into a state of non-power creates a vacuum which can be filled by powerful ideas (13.5; 14.5.3). These can then be brought into being and acceptance. Once the idea is into the system then, in the absence of imperatives against it, it becomes reality.

iv) The principle that self interests adjust to malpractice

Today policies are led by markets and made by politicians. Planners are guided by policies and, particularly on the mainland, directed by politicians. Although officers³⁸⁹ charged with plan administration may therefore find their positions uncomfortable, even under threat, when changes are required³⁹⁰, there are

³⁸⁹ These officers were usually administrative functionaries or members of the building / technical services department.

³⁹⁰ see also Siegan (1972)

few indications that they consider this untenable. They are, therefore, 'open to persuasion'.

v) The principle that concealment attends poor resolve

Despite notions that 'democratic representation' is unbiased and honourable, in the absence of clear legally binding 'rules' which link authority with a requirement for subject knowledge, visible responsibility, and enforced penalties for their breach, opportunities arise for secrecy and concealment.

vi) The principle that regulation carries potential for profit

If competitors generally are constrained by the 'rules' then these create the opportunity to profit from their avoidance. It therefore pays, for example, to employ clever lawyers, architects, and other professionals to find ways round them and to use 'closed circle' agreements which ignore social equity in favour of private and commercial considerations.

vii) The principle of protection via circular deception

A circular form of deception has come into being in which barriers to transparency restrict knowledge and provide protection for a deterministic decision making. It works like this. While mainland plans represent certainty, stability and security, in today's world the holders of political and commercial capital and power perceive that, to protect the status quo and grasp market potential, they must accomplish change rapidly. To this end speedy departures from fixed 'rules' are necessary. This requires avoiding the conflict, dissent and delay likely to arise from the wide participation of a conservative, stability and certainty seeking, public. Utilising the foregoing principles, it is easier and quicker to achieve any desired changes through small elite group consensus in which decisions revolve around interpersonal agreements. The consequence is that, with individuals primarily concerned to protect their positions and power bases, permit decisions may rely more on the personal agendas of decision makers than anything else.

17.4.2 *Converting practices into principles*

If, at least where major private projects are concerned, development control does not observe pre-determined plans, regulations, policies or any other 'rules' then it is possible that much contemporary discussion is becoming vacuous. Take, for example, the dichotomy between technocratic and sociocratic forms of planning (Faludi and van der Valk 1994), whether or not project or strategic plans are the way forward (Krabben 1995), or the nice distinctions made between rules and strategies and the regulative and transformative functions of plans (Mazza 1995,2-3). Whilst allowing that these, and other, authors may hold a different view of the 'rules', as interpreted here, unless the 'rules' under which any of these is supposed to operate are reliably enforced, theorising over what outcomes they will produce seems pointless.

Land allocation is becoming less and less within the practical remit of planning authorities, at least for major private developments and especially on the continent, whether or not either of them theoretically fall under their control. It is also becoming increasingly remote from, for example, the principles which supposedly still guide English planners. Thus, in addressing both the EC's requirement (1.1) and the Adam Smith Institute's arguments (17.4), the 'principles' found in practice and outlined above would seem important considerations. Whilst in themselves they require much further investigation and consideration, they appear to raise important issues for any re-examination of the philosophy and purpose which European planning should adopt for the 21st Century.

17.4.3 *Interdependent relationships*

Here it may be useful to assess, as a whole, the circumstances which give rise to these new practices and how, collectively, they have evolved as interdependent cause and effect relationships. Consonant

with the overall behaviour and practices observed through the research, and taking the Lukesian position of *methodological individualism*, i.e. "... that facts about society and social phenomena are to be explained in terms of facts about individuals" (Lukes 1970), one interpretation of these interdependencies is shown in Illustration 7, p.329. The table from which these were drawn, and which lists numerous issues associated with interests in application and permit decisions found by this research. is provided at Appendix 17.

Relationships & Practices

The primary interest of most adults lies with themselves and their immediate family. Their concern with other affairs is aroused when these present some visible and direct benefit, threat or disadvantage to their primary interests. Such awareness occurs when they are able to associate information, but low awareness gives rise to secrecy. This permits deals to be put together through contact networks which rely on informal systems to provide protection and concealment through this secrecy.

Here the personal motivations of civic leaders kicks in, as their concern for city growth seeks out and promotes interest in property development. Such motivations are closely linked to the interests of senior personnel and the way the local economy and city image can be used to advance these via marketing the city. In addressing how to compete with other cities, wider political concerns may turn this toward seeking co-operation with other municipalities, whilst jointly these encourage a flexible approach toward development 'rules', opening the way for developers to seek out opportunities. To a degree these are dependent on the dating and state of obsolescence of the city's fabric, the monitoring of which may have provided information for staff to work on maintaining or upgrading the city's image.

But any policies they adopt to achieve this will be dependent on taxation, whether raised locally or via central government. In themselves these interventions may impact on the amount of land coming forward for development, as well as affecting the demand for, and thus the value of, sites. This is closely related to market opportunity. Appropriate serviced sites need to be available on a timely basis to take advantage of this, with permits and finance being adapted to these needs. Here the resources invested in companies, the way in which they are directed and the creation of appropriate projects are inter-linked with the ability to raise the finance to execute them. In turn this determines the quality of the development permit required, the related land value, and the comparison of information on values to assess this.

Thus the forum is created for the fusing of government and development interests. This creates the potential for development ideas. Based on these, deals can be made between key actors, with the value of these and other elements being concealed for political as well as commercial reasons. At the core of the accompanying negotiations, profit levels provide funds for the provision and distribution of benefits. The process of agreement over this may involve and even generate the favours and patronage upon which project and design freedom depend, subject to any objections being suppressed and the media controlled.

Over stringent financial demands may lead to utilitarian architecture, itself impacting on the capacity and capability to be innovative in design. Here, however, the background of custom and culture unconsciously shape both planning and design, as image evolves through the implementation of departures from predetermined plans.

Illustration 7 *The interdependence of issues raised by interests in permit decisions*

17.5 Institutional anomalies

To judge from the research findings, despite, or perhaps because of³⁹¹, rapid changes in society, those systems based on rigid, institutionalised 'rules' seem prone to dogma, the suppression of questioning

³⁹¹ because, in an uncertain world, people wish to cling to certainty.

and the indoctrination³⁹² of functionaries³⁹³ to believe in and perpetuate the system. As shown earlier:-

1. Few people seem concerned that, across Europe, planning and development control 'rules' are not well known or that their purpose is little understood (16.7.6). Notions of their being to *balance all interests* equitably, appear redundant (16.7.5).
2. Participation in 'the plan' does not necessarily give a voice in the permit. Inadequate representation in the pre-permit decision process may prejudice interests (14.5.3). Access to this is a function of power and undermines *due process* (15.5.1)
3. All systems evidence 'venting' mechanisms to defuse, minimise or avoid unwelcome interference with negotiation and agreements. However, the institutionalisation of citizens' rights and interests on the mainland may make actors there less aware of and/or receptive to these (15.5.2)
4. Codified continental 'rules' appear more prone to the creation of petty bureaucratic power in pursuit of their own maintenance than does the English system, although this is under incremental threat in that direction (16.7.6).

Institutionalised regulation, it would seem, promotes silence, denial of irregularities and passive support in concealing circumvention. In themselves these manifestations gain strength from public insensitivity to petty corruption. This may even be perceived as accepted custom, conditioned by relative powerlessness to secure change. 'Playing the game', officials find it easier to support development interests than those of the community. These issues are discussed below.

17.5.1 *Covert institutionalism*

With contravention requiring collusion between actors, the suggestion is that systems themselves become corrupted. In the words of an Italian expert on planning law, "*The strength of the administrative apparatus is an unconstitutional secrecy*" (I-Gen/CdB). Thus, as the human need for social interaction, communication and networked relationships results in bargaining and negotiation linked to or resulting from the pursuit of power elite interests, driven by coterie of disparate individual goals, personal patronage is able to override community duty. Once desired outcomes have been agreed by decision making elites and the 'rules' selected or adapted to fit these, as the managing director of an English end user explained, "... *bureaucracy replaces democracy to get things done*" (E-10/4).

In such deal making, 'rules' may be perceived as a resource, the power of which depends upon the ability of their controllers to marshal and direct other related resources. These often depend on money and, as the financial strength of LA's declines, so does their ability to use the rest of the regulations. This leads to the emergence of new ways of municipalities acting together and with such other entities as are able to direct necessary resources, leading to the emergence of new hybrid decision processes.

17.5.2 *Interests and institutions*

It is then but a short step to equate municipal interests with those of developers³⁹⁴ and not much further to recognise the importance of the latter's strength - and hence bargaining power. Thus the find-

³⁹² Via education and customary attitudes and beliefs.

³⁹³ Here including municipal administrators, technical officers, architects, engineers, planners and other professionals.

ings that commercial interests take precedence over 'rules', and that only the entrepreneur's and politician's interests are advanced by the process, can be rationalised. But doing so challenges three further notions about institutionalisation:-

- First, that planning is party political. Although permits may be in the gift of political leaders, in the main party-politics appear not to enter individual decisions. These are mostly *ad hoc* and often override established policy. Planning is political only in the sense that politicians pull the levers, allocating benefits to suit their ends.
- Second, that senior politicians direct planning. True, they direct the plan-makers and administrators but, at least in some measure, they may merely do so as intermediaries to implement agreements reached with developers. The more power developers exercise, the more they drive decisions.
- Third that 'mediation' or 'balancing' of interests receives due attention. Plans may exercise this function, but permit decisions do not - at least as far as citizens and local communities are concerned. Furthermore, as the planning process has become commercialised, professional advisors may encourage negotiation of plans rather than their implementation. In this way even circumvention of the 'rules' becomes an institutionalised practice.

17.5.3 Institutionalising co-optation

Europe may have adopted different approaches to development control, but reached the same end.

Supported by expert evidence³⁹⁵, what has been seen is a *culture of co-optation*. Of dissident voices being 'bought off', persuaded not to 'rock the boat', of being silenced as well as simply ignored, since their interests are just not strong enough to really count, whether or not they are important or relevant. Lobbying, pre-negotiation, and hidden agendas, as found by the research, deliberate delays and non co-operation as also noted by Newell (1995), are all present in an increasingly institutionalised process which uses the media in playing to the need for good, competitive 'image'.

If one equates commercial reality with what is morally 'good' then lack of this by local authorities may be seen as a moral inadequacy. But the concern here is not just that strict morality is marred by impropriety (e.g. I-03), that 'competitions' are often a sham device (e.g. D-Gen/2), or that municipalities undertake work on behalf of developers (e.g. F-05). Nor is it solely with the potential gained for the growth of real corruption by the circumvention of systems. However true their belief is, *developers* in all the countries investigated are certain that corruption is present. Perhaps because, after agreement has been reached with the politicians, the manipulation and the over-riding of rules occurs behind the scenes, these developers seem less aware of this. But if they are right, then as landowners, developers and contractors strive to make their 'payoffs', one possible result is that costs and prices are increased, increasing the inequities already described.

17.5.4 Inefficacy in liberal democratic institutions

Yet the concern here is even greater. If, for example, corruption is equated with political scandals, then Markovits & Silverstein's (1988, 5-7) findings help illuminate this. In their investigations the quest for political power at the expense of due process and procedure was found to be at the core of

³⁹⁴ Here extended to include all those principals seeking development permission. e.g. end users, investment companies, etc.

each incident. In effect this research has found the same. In virtually all cases the 'rules', representing due process and procedure, were in some measure circumvented or misused, although not necessarily by municipal representatives³⁹⁶. It follows that, whilst the quest for political power may be a causative factor³⁹⁷, something more may be amiss. As argued here, one candidate for this is the institutionalisation of public protections via codified regulations. Another is the institutionalisation of planning's purpose via the same mechanisms. A third may be the resultant lack of education in, and critical academic examination of, both of these. Accordingly, with reliance placed on respect for and observance of systems shown to be flawed, not only does the behaviour and motivation of individuals warrant greater consideration than appears to have been thought necessary hitherto, but questions of land tenure and intergenerational equity (1.7.1; 17.6) may prove vital if, in any system revisions, justice, fairness, impartiality and transparency through *due process* are to be secured.

McAuslan (1980, 265) reminds us that English planning is about the control of private rights in land. He argues that planning's ideology should be much closer to that of public participation than that of public interest or private property which dominate the law and administration of land use planning (266-7). Accordingly it is left to planning systems to resolve these conflicts equitably. But failure to do so via the 'rules' favours the ability of government to manipulate both policy and public perception to their advantage. Such failure may also allow all forms of 'rights' to fall between three stools, those of the state, the community and the citizen (consumer), while enabling commercial interests to 'play all ends to the middle'.

Even so, the extent of this concern may be even greater than this. To instance Markovits & Silverstein again, for them such situations can only occur in liberal democracies. They see no other political arrangement where the separation of the public and private realms is so essential to the vitality of the political system. Yet where physical development is concerned, the unresolved tensions between public and private rights would seem to exacerbate those tensions present in liberal democracy itself. It therefore seems that any re-examination of European planning systems may need to embrace reconsideration of Europe's power structures, the extent of its political controls and the relevance of its representational mechanism, although these are all beyond the remit of this thesis.

17.6 Emergent theory

The Geddesian tradition is that planning should be evolutionary, merging anthropology and geography as it flexibly interprets local cultural space in adapting to changing situations (Ferraro 1995). Although somehow this seems to have been left behind; first as planning became tied to 'blue-print' and 'rationalist' concepts and then as it has leapt to become the servant of latter day economic 'virtues'

³⁹⁵ from non-case informants like development industry professionals, architectural, engineering and planning experts and leading academics across all the countries investigated.

³⁹⁶ e.g. D-02, E-03, I-01

³⁹⁷ e.g. E-06, F-01, I-02

(2.3, 2.4, 17.1, 17.4), it may be seen again in Innes' (1992, 443) explanation that the "... *task of knowing ... is making sense of issues rather than trying to distill out principles.*"

On reflection, in many respects this thesis has been about just this - of discovering the influences shaping new *de facto* systems which are emerging across Europe. Trying to make sense of these challenges, Nadin's (1995) view that '*temporal closeness with plans*'³⁹⁸ represents closeness with system objectives, whilst distance lessens the chance of realisation. To the extent that this relies on established plans, this is true. But, if the research findings are generalisable, then planning is now less important than developing and plan making has become secondary to permit decision making. Today, city futures are being shaped not by planners' visions (Adams 1994) but by the informed guesses and hunches of political leaders in 'partnership' with the private sector, often on a site by site development basis. As shown in earlier chapters:-

1. Although superficially mainland systems are perceived as moving toward English style flexibility, more properly they appear to be becoming unlawful. Reluctance to enforce regulations and the search for space within them to create and exercise improper discretion and judgement, implies that to marginalise 'rules' and override *due process*, has become acceptable behaviour (16.7).
2. Although the quest for power, through growth linked to city size and image, may have driven flexible infringement of the 'rules', their own size, complexity and weight has led, jujitsu like, to both their undoing and their use by the forces that would undo them (16.7.6).
3. To facilitate unplanned development, the consensus style decisions favoured by mainland planning systems are less likely to be transparent than those in England, which are more closely related to an adversarial approach to justice (16.7.4).
4. The *municipal entrepreneurial* model of permit decision making identified by the research (16.7.5), either shifts the focus from developers to contractors, or moves developers toward being contractors.
5. When formalised as applications, development proposals provide the interface through which neighbourhood and wider communities confront commercial and political direction. As such they are an essential locus of and for democracy (14.5).

As cities make concerted efforts to market themselves more successfully on a national or international scale, they are resisted by rule-bound systems. Pressed by the need for flexibility, the local level actors, agencies and institutions responsible for operating these systems, 'invent' policy driven opinions and ways to escape them. In the face of economic determinism, competition between cities and the resultant shift from rational administration to entrepreneurial styles of governance are creating new forms of strong public sector in which land-use is as much about public sector 'dealing' as about market direction. However, it does not appear to be about transparency, or due process, or equity.

It could be argued that the wide spread aberrations evidenced undermine conventionally accepted standards of ethical behaviour. But, although in many respects the obverse of that argued here, a case may also exist³⁹⁹ for seeing them as society's response to wrong and bad limitations imposed in the past which have resulted, or are resulting, in both improper constraints on liberal freedoms and the unequal favouring of an insensitive form of 'democracy'. If so, then what is happening may be le-

³⁹⁸ the proximity in time between plan preparation and implementation

³⁹⁹ Such alternative argument might, for example, address concepts of law & order, insurrection, truth, legitimacy, as well as co-optation itself..

gally wrong, but morally good in terms of the collective search for a higher natural justice in the pursuit of a co-operative good (1.3).

17.6.1 *Co-operative consciousness and the new morality*

As public awareness of the concerns discussed in this thesis and inherent in 'equity' grows, the awakening of society's latent co-operative consciousness (e.g. Ridley 1996) is called for. That this is latent may be seen through those case studies where third parties tried to raise their voices, and in the general concern in current literature for greater participation. It is also evidenced in, for example, Faludi & van der Valk's (1994, 231) extension of Thomas *et al's* (*op cit.*) concerns. Tracing Dutch planning 'doctrine' back to the 19th century, they claim that this provides an aim and objective for planning - the preservation of Holland's 'Green Heart' - and illustrate how this has been adopted, supported and strengthened by popular culture. The English reverence for 'Green Belts' is a similar phenomenon. Yet in their defence of 'doctrine' Faludi & van der Valk fall short of addressing a related concern of this thesis - planning's intrinsic *raison d'être*. Reliance upon 'doctrine' to act as a guiding ethos, may be an improvement on 'rules', but it still leaves planning in the philosophical wilderness, even though it may have been there since Geddes. It may work well for as long as the key actors wish to be associated with it but, as this research suggests, when it no longer suits their interests, and in the absence of (inter)national direction, ways will be found to subjugate even doctrine to these interests. Unless, that is, the co-operative consciousness is aroused.

The reasons for this are simple. 'Doctrine' may attract local or even national empathy, but its vision is limited, much in the way that Adams (1994) considers planners can bring vision to development plans. Perhaps in common with many other aspects of the state apparatus, it lacks the essential element which this work has found wanting throughout Europe - *purpose*; Purpose derived from a clear universal *philosophy of planning* as distinct from this being merely the servant of politics; Purpose which establishes universal guiding land-use principles; Purpose which has meaning for everyone and which everyone can apply in *managing the environment equitably* (17.6.2).

Ideas for limiting this danger are increasingly presented for evaluation⁴⁰⁰ Many of these endorse the principle of 'sustainability', currently exercising the collective planning consciousness, adopted at the Rio de Janeiro 'Earth Summit' of 1992. But to do so they must bring local policies into line with Agenda 21 of that conference. As this research illustrates, contemporary politics concentrates on immediate issues, like jobs, housing - and votes. But issues of the environment and sustainability are complex and long term. They demand the separation of long term planning from short term politics. Aided by the EU's adoption of subsidiarity, this faces all concerned with planning with the potential emergence of a 'new morality' (Benfield 1995).

⁴⁰⁰ see for example Bailey (1995), Benfield (1994a; 1995), Carta (1993)

17.6.2 The 'new morality'

Take just one such issue - the concept of *environmental rights* - to consider this 'new morality' further. This concept of rights embodies the fundamental notion that all human beings⁴⁰¹ have certain environmental entitlements guaranteed by virtue of their humanity; rights which must be respected even where they are not socially efficient or optimal under a utilitarian model. These may involve, for example, rights *to* things, such as rights of access to mountains and rivers and beaches, or rights to be *free from* excessive levels of pollution. But they face theoretical and practical differences in determining their extent and whether they can legitimately vary from one country, region or culture, to the next. (Beatley 1994, 20-21). These, of course, impinge on property rights, a persistent feature in considerations of planning and development. They are also perceived as playing an important role in securing individual freedoms (Attfield 1991) and the realisation of autonomy, often being included in theories which value these goods. Even so, as this thesis has illustrated, the structure of European planning systems has not resolved the conflict between *property rights* and *public rights*. Indeed, even the concept of '*public interest*' remains uncertain so that conflict and uncertainty can advantage certain groups, while reducing or minimising all 'rights' impact negatively on equity. Clearly this concept of *environmental rights* has far reaching implications..

Now by any definition 'planning' is future orientated, even though, as witnessed here, development control may not be.. Likewise, rights, understood as interests, while possibly historically embedded are also always future orientated. Furthermore, theories of property rights that rely on ethical justifications have one inevitable consequence. They all accept that, via some kind of "Lockean Proviso", all generations must have the chance to acquire some previously un-owned property. This presents 'planning' with a major difficulty, since one near-universally accepted limit on property rights is that their use must not constitute force. However, there is a close analogy in the relationship which present society has with beings in the future, to one of force. Consequently, if the same criteria which apply among contemporaries are applied to the property rights of earth's future inhabitants then, as Fairweather (1992) asserts, substantial obligations to protect natural resources are inevitable.

Yet how can future beings who do not exist now - and who might have such rights as would require the environment to be protected now - have rights now? (Attfield 1991, 92) If, as Beatley (1994) contends, the present generation has "*...no absolute right ...to use or develop land or to reap high profits from its use where significant environmental destruction is the outcome, then where such activities fundamentally change the natural character of the land, the presumption must be against allowing extensive development.*"⁴⁰² This argument adopts both Baier's (1984, 227) belief that

⁴⁰¹ 'Deep Green' thinking would have it that all forms of life have similar rights.

⁴⁰² This principle has been perhaps more eloquently articulated by the Wisconsin Supreme Court in its landmark decision *Just -v- Marinette*. The Court upheld a local shoreline zoning ordinance which prevented a landowner from filling and building on a wetland site. The court stated that "An owner of land has no absolute and unlimited right to change the essential character of the land so as to use it for a purpose for which it was unsuited in its natural state and which impairs the rights of others. The exercise of the police power in

"...future persons interests can be determinate even when the persons themselves are not yet determinate" and Rawls' (1971) "*just savings principle*" - that rational individuals deciding on the principles of social justice (and under a 'veil of ignorance') would acknowledge certain obligations to their immediate descendants.

This may be far removed from the form of planning and development control which this thesis has shown is practised today. But whether or not it is very different from the concepts followed by the draftsmen of continental Europe's original codified systems is, as intimated in chapters 1,2 & 3, perhaps less certain. What is sure is that if any revision of Europe's planning systems is in prospect, then if this is to address what has been shown to be their present absence of 'equity', then the extension of this need on an intergenerational basis must be a high priority.

Thus, consideration of this one issue of *environmental rights* which confronts planning, supports the argument for the separation of the control of planning from short term, contemporary politics (17.6.1). To address the quickening pace of change a new structure is required which may bring 'planning' closer to the notions of land-use 'stewardship' (13.5). One outline for this structure, believed worthy of consideration, is that this should:-

- be *proactive* for long range, strategic and sustainability issues,
- be *reactive* to balance potential short, medium and long term impacts of development proposals on local communities, (and to this end) ...
- use planner *reticulists* to facilitate comprehension and mutual understanding between those with any interest in both strategic and development proposals and by them all of the range of impacts which these might have.

17.7 Conclusions

European planning systems are supposed to be fair. Through their 'rules' they should protect all levels of society against the excesses of power in the allocation and conversion of land-use. However, via the narrow window of permit decisions for major private projects in selected countries, research has shown that this may not be so in practice.

Instead, what has been witnessed is the demise of those planning systems where a misplaced belief in rationality has resulted in crisis; a crisis in which strategic planning at local level has failed to deliver expectations; a crisis in which a regulation mentality, facilitated by a willingness to defer 'planning' in favour of post hoc rationalisation and regularisation, has, *de facto*, promoted ad hoc unplanned development. To achieve this, informal but clear relationships which pervade all levels of authority have caused 'blind eyes' to be turned to variations, exposing mainland systems as unrealistic.

Although the 'rules' in various of the countries considered have been revised since the field work was undertaken, it is believed that the fundamental issues addressed in the preceding pages remain. They

zoning must be reasonable and we think it was not an unreasonable exercise of that power to prevent harm to public rights by limiting the use of private property to its natural use." (56 Wis. 2nd at 11.201 N.W.2d) cited

may be condensed into one final, embracing point.

To countenance escape from the 'rules', as discussed, facilitates escape from the more important constraints on urban fabric and the spatial relationships of good design and harmony. But, by attempting to universalise, for educational or regulatory purposes, concepts of good design, spatial arrangement or social/activity mix, society has come near to destroying an otherwise innate capacity of human-beings to "sense" what is right and wrong, whether or not they consciously⁴⁰³ 'want' to know this.

"Good physical planning" (for the public seem to equate the built environment with planning rather than architecture) is in fact an accident of culture. It is not the plan or the design *per se* which provides the "good" attribute, but the cultural conditioning which says "this is the 'right' way to build, or lay out this or that development". In such cases it is almost as if those responsible have done things because they "felt" right in the context of the country and specific location, rather than because they have conformed to some ordinance or theory. (Field 54/4). In this respect, for example, the Dutch 'Green Heart' is neither 'planning' or 'doctrine' which has a place in either regulation or strategy. Rather it is the planning profession granting themselves a legitimacy by 'naming' a physical situation which has cultural overtones⁴⁰⁴.

In adopting regulations to control development, government has given itself powers to design and direct at a strategic level. Legal local plans and related 'rules' are one manifestation of this. Through a form of iteration, their strategic failure has led to a lack of public respect for political and administrative structures and permitted the growth of informal structures and procedures. Combined with lack of administrative co-ordination and the lack of efficiency in public schemes, this has created a lack of public confidence and trust in political and legal structures. In failing, local strategy - and the accompanying *de facto* collapse of legitimacy - has allowed commercial strategy to replace it.

On reflection one might consider that, in a private enterprise society, commercial criteria will always doom public strategic planning to failure⁴⁰⁵. The consequence is that community interests may be progressively surrendered to greater national and international power interests. But, it is contended here, this only remains true so long as present institutions and structures are adhered to.

In the days when regulatory codification took root across mainland Europe, no doubt it afforded a good and important means of delivering even handed justice and certainty. Certainly it would have been a good means of compensating, in both the civil service and public at large, for the lack of legal

in Beatley (1994, 35)

⁴⁰³ sine "Where ignorance is bliss, 'Tis folly to be wise." (Thomas Gray 1747), some people may prefer this state.

⁴⁰⁴ The 'Green Heart' only became official policy in 1988, whereas the concept only arose by accident, being much below sea level, wet and unsuitable for building. Rather than specific design or planning principle it gradually became seen as open area and progressively became regarded as part of the Dutch plan. However, modern engineering technology have now enabled a new line to be drawn some way inside the former protected rim to allow further urbanisation. (field 33/35)

⁴⁰⁵ It might be argued that any and every emergent idea is co-opted and/or diverted to serve the status quo.

and administrative education and discretionary judgement skills. Quite probably they gave relief and confidence to those previously oppressed who sought *Liberté! Egalité! Fraternité!* But, in the near 200 years since Napoleon first saw the benefits of addressing this need, society has moved on.

The mass of Europe's peoples is now literate, well educated, and highly informed. As this thesis has demonstrated, such old style regulatory rigidity seems no longer well suited to serve its intended aims. If the reforms of planning systems suggested here were to be adopted, then the separation of the *Pro-active* and *Reactive* roles of planning might actually enable them to be used by planner reticulists (Hickling 1975) to re-introduce Geddesian care for the flexible interpretation of local cultural space and mediate between all interests in adapting this to changing situations (Ferraro 1995). If so, then a greater number of differently trained and educated planners will be required (Benfield 1994b) to facilitate the real access, freedom and the equity sought by this enquiry.

17.8 Summary

This thesis has been about land conversion in liberal democratic societies. It has suggested that, as presently structured, there are major elements of *Injustice in Planning in Europe*. Government interventions appear not to regulate or direct the process equitably, nor do Europe's current planning and development control systems seem properly to address intergenerational obligations to protect land as a natural resource. Apprehending these voids from the concept of equity (1.3), humankind's latent co-operative consciousness (17.6.1) has been noted as capable of 'sensing' what is right or wrong, good or bad, of delivering what is properly due or merited, of impartially responding to Kant's *categorical imperative*, and of innately resolving Kierkegaard's *problem of choice*.

Perhaps, in the context of planning systems intended to manage our common heritage in our common interest, it is not surprising that it has seen true equity as demanding more than a framework of supporting rules and principles. Nor, having perceived contemporary planning as lacking philosophically grounded purpose, to find it argued that the very concept of 'planning' must appeal above mere temporal considerations to some universal law of nature. To this end the new, internationally accepted imperatives of sustainability and subsidiarity may provide a route.

Maybe the time has come to revisit Geddes' "theory of planning". As summarised by Ferraro (1995,13) this is presented in Figure 70.

Geddes' "theory of planning"

- ◆ Planning cannot be based on authority. It mainly requires co-operation.
- ◆ Co-operation within each generation is an attitude of respect and conservation, of care for Life and of the Earth, while co-operation among different generations is an attitude of openness towards the future.
- ◆ Then the plan must develop as a game, and the ability of the planner is to keep the game open to new (now unforeseeable) interpretations and the future aspirations to come⁴⁰⁶
- ◆ Then the work of the planner is mainly communicative: his words and his action (the Appeals he makes and the incentives he distributes) do not directly build objects, but they are intended to stimulate interpretations and "moves" from people, and to persuade people (through appeals and incentives) to co-operate.

Figure 70 *Geddes' theory of planning as seen by Ferraro (1995)*

While, as Geddes indicated, managing our environment equitably is a mutual process, it is also complex and long term. It must be both strategic and collaborative. Perhaps more importantly, it must enable local communities - those with historical interests in place - to adequately respond to, and if necessary resist, the short term, often commercially driven, remote interests, which would circumvent their protections and displace both them and their heritage.

⁴⁰⁶ Town Planning in Balrampur: A Report to the Hon'ble Maharaja Bahadar, Murray's London Printing Press, Lucknow, 1917 (cited by Ferraro (1995,13))

Appendixes

Appendix 1
Example of local project MBO programme

| Local Project MBO's - 'Transbourg' | | | |
|---|--|--------------------------|-------------------------|
| Objective: Short Term | Target Standard | Time Required | Target Date: |
| Enlist Planning School collaboration. | Passive non involvement | 4 weeks | 28/2 |
| Advertising for and recruit RA's. | High post graduate interest | +2 weeks | 14/3 |
| Establish RA's base disciplines | Interdisciplinary | +0 | „ |
| Obtain access to Municipal files. | Department Head co-operation | +1/2 week | 28/3 |
| Run RA induction training programme. | Active participation | | |
| | Full understanding | +1/2 week | 1/4 |
| Establish RA 's personal aims. | Career importance | +0 | „ |
| Establish RA's targets. | Suitable subdivision | | |
| | Relation to Project | | |
| | Full ownership | +1/2 week | 8/4 |
| Link RA's MBO's with those of project. | Clear relationship | +0 | „ |
| Link RA's base disciplines to project. | Create team bonding | +0 | „ |
| Extraction of data from L/A files | Clear picture for RA's | +1/2 week | 15/4 |
| Critical questioning of data. | Develop RA insights | +0 | „ |
| Analysis of L/A practice. | Cause RA's to ask "why?" | +0 | „ |
| Comment & debate (press cuttings) | All local viewpoints | | |
| | Round out picture | +1/2 week | 19/4 |
| Sub hypothesis building. | Get RA's to question what influences are behind processes. | +0 | „ |
| Medium Term | | | |
| Actor interviews. | Good co-operation | | |
| | Basic data & deep confidential information. | +2 weeks | 3/5 |
| Progressive "why" questioning | Critical challenge to data | | |
| Progressive appraisal.. | Clear test of hypothesis | +1/2 week | 6/5 |
| Case data comparison and analysis. | Clear validation & message | +1/2 week | 10/5 |
| Case comparisons. | Ditto | +1/2 week | 13/5 |
| Further sub hypothesis building | RA's to bring these forward | +0 | „ |
| Longer term | | | |
| Case Summary write ups. | Concise case synthesis | | |
| | Diagrammatic representations | | |
| | for:- | | |
| | . case time chart, | | |
| | . actors and relationships | | |
| | . institutional dynamics. | +1 week | 20/5 |
| Local non case informant interviews. | Revalidation of findings. | | |
| | Reverse test of hypothesis. | +1 week | 27/5 |
| Testing of sub hypotheses. | Ditto. | +0 | „ |
| Local debriefing (& seminar). | Good department input | +1/2 | 31/5 |
| Examination & Critique of method. | Ditto. | +0 | „ |

Appendix 2
Example of RA's MBO programme

| Research Assistants MBO's | | | |
|---|--|--------------------------|-------------------------|
| Name: Largo Sarason | | | |
| Personal Aims: Compare theory with what really happens, Experience group work, Practice English. | | | |
| Discipline to involve: International Politics | | | |
| Objective: Short Term | Target Standard | Time Required | Target Date: |
| Determine what R&R should be used in:- - planning - building - fees and taxation - incentives - etc. | Clear comparison with what municipality do. | +1/2 week | 15/4 |
| Extract key theories relevant to practice. | Clear comparison as above. | +1/4 week | 16/4 |
| Consider what Political theory relevant. | Relate base discipline | +0 | |
| Work in group to get case information from L/A files. | Full understanding of group aims and working. | +1/4 week | 19/4 |
| Read everything in English about the project. Question all misunderstands. | Full comprehension of terms and language used. | +0 | |
| Write all notes in English. | 10% improvement on now. | +0 | |
| Speak about the project <u>only</u> in English. | 10% improvement in fluency. | +0 | |
| Medium term: | | | |
| Progressively assess incidence of R&R use. | Enforcement percentage. | +2 weeks | 3/5 |
| Consider what other theories may be suggested by practice. | Total relevant theoretical knowledge. | +0 | |
| Relate findings to International Politics. | Recognise relevance of base discipline. | +0 | |
| Play a full role as a team member. | Confidence in contribution. | +0 | |
| Translate everything extracted from files into English. | 10% improvement in speed. | +1/2 week | 6/5 |
| Prepare notes for telephone discussions in English. | 25% improvement in fluency. | +1/2 week | 11/5 |
| Longer Term: | | | |
| Confidently compare Italian R&R and planning theory with practice AND with International Politics. | Authority of knowledge. Full integration of base discipline. | +1 week | 18/5 |
| Ensure my contributions address the group project aims. | Full integration of effort. Raised values of effort. | +1/2 week | 20/5 |
| Write Case Summary in perfect English. | 100% command of written language. | +1/2 week | 26/5 |
| Deliver debriefing seminar in English. | 50% improvement in fluency. | +1/2 week | 31/5 |

Field-5

Research Project
POLITICS , MARKETS AND RULES IN EUROPEAN. PLANNING

Ethical Considerations

Guidelines & Regulation:

This research observes the ethical guidelines published by Social & Community Planning Research (SPCR). Permission is not required from an ethical committee within the UK. If it is required in any country of the SEM then this will be sought via collaborators in that country.

Key Concerns:

To take every care to:-

- protect the rights & welfare of respondents.
- avoid hazards for investigators
- adequately inform subjects about risks and benefits involved to themselves, investigators and society .
- preserve confidentiality
- conceal identities from public exposure.
- keep identifying information out of published reports.
- discourage research employing doubtful ethical standards.
- encourage openness, honesty and the preservation of good relations with participants.

Researchers Code of Ethics:

1 Sponsors shall be -

- a honestly informed about researchers qualifications, capabilities and goals, avoiding any promises that violate professional ethics.
- b. made fully aware of the researchers commitment to full disclosure of sources of funds, personnel, and the dissemination of research results.

2 Before commencing any research the researcher shall:-

- a. carefully evaluate the ethical acceptability of the study.
- b ensure that there will be no governmental interference to compromise the ethical standards of the research.
- c. explain to all collaborators, assistants, students, employees and participants that they incur parallel obligations and are discouraged from participating in any project employing doubtful ethical standards.

3. At the outset the researcher shall establish a clear and fair agreement between investigator/s and participant/s, clarifying the responsibilities and obligations of each. In particular:-
 - a. protecting the rights, welfare, dignity and freedom of all research participants. This includes protection from physical and mental discomfort, harm and danger. If the risk of such consequence exists, then the participants are to be informed of this and consent obtained before proceeding.
 - b. all information obtained about a participant is to be treated as confidential. Plans for protecting this confidentiality are to be explained to the participants as part of the procedure for obtaining their informed consent to participate.
 - c. participants are to be informed of all aspects of the research which might reasonably be considered to affect their willingness to participate.
 - d. any questions raised by the participants about the research are to be answered.
 - e. all promises and commitments given in this agreement are to be honoured.
4. Throughout the research it shall be recognised that:
 - a participants have the right to decline to participate in the research or to discontinue participation at any time. Special vigilance is to be maintained by investigators to preserve this freedom at all times, especially when in positions of power over the participant.
 - b. openness and honesty are an essential characteristic of the relationship between investigator and research participant. If the methodological requirements of the study necessitate concealment or exception, the participant's understanding of the reasons for this action is to be ensured and the quality of the relationship with the investigator to be maintained.
- 5 After data has been collected, participants are to be given full clarification of the nature of the study and any misconceptions that may have arisen removed, if this has not been done beforehand.
6. The integrity of findings as the result of impartial research is to be kept above external influence. Tentative results are to be kept internal within the research team. Only definitive results are to be released to clients /public /participants

To:
Michael Benfield
European Property Development & Research
Department of Town & Country Planning
Claremont Tower
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Newcastle upon Tyne
NE1 7RU

**RESEARCH ASSISTANTS
ETHICAL UNDERTAKING**

POLITICS, MARKETS AND RULES IN EUROPEAN PLANNING
- land allocation for major property development projects in European countries.

I confirm that I have seen and read:-

- your notes on ethics relating to the above research project,
- the Code of Ethics which is to be applied to this research,
- the letter of introduction and explanation to prospective participants,

... and undertake to be bound by these in respect of all work carried out by me for this research project. I further undertake not, without your written consent, to use any part of this research for my own or any other purpose.

To help eliminate interviewer bias the following brief personal information may be relevant. Please note this in confidence:-

Background

Experience:

World view/Life perspective:

Affiliations:

(Please Print)

Signed: Name:

Date: Address:

.....

Tel:

Appendix 5

Interview Schedule

Interviewer: Date: Time start: Time end: Interview No:..... Case Code:

GUIDELINES

INTRODUCTION: (Use your own words. Emphasise points underlined.)

I'd like to start by telling you briefly what our research is all about.

- * Variety of codified, heavily regulated systems in Europe.
- * BUT little information on how they really work in practice.
- * Contrast with UK.
- * EC/SEM 1992. Harmonisation. Culture, etc..
- * Importance for everyone concerned with land, property, politics, markets, regulation and legislation.

I'm one of a small team of research assistants talking to officials, politicians, developers, interest groups, developers and professionals about these processes.

I'd like to talk to you about:-

- how you think the system works in this country.
 - what you think influences the way decisions are made.
 - how your organisation is affected by and copes with this.
 - how someone with your background and experience fits in.
- ... and so on.

I'd also like you to tell me a few things about yourself, to put all of this in context.

These discussions usually take about an hour to an hour and a half, sometimes longer if we both get really involved. I will take rough notes as we talk, but everything you tell me will be treated in strictest confidence. Any quotes that are used will be strictly non attributable. You may hold opinions on certain things, even though you have no direct knowledge or experience of them. I'd like you to tell me when this is the case.

Some people find a few of the things we touch on a bit sensitive. If you are bothered about anything, you have no need to answer and you can stop our discussion at any time you wish. However, it is important for the research that any information that you do give me is truthful or your honest opinion. If you don't want to give an answer, then I would appreciate it if you would say so rather than saying something that could be misleading or misconstrued.

In fact, since this kind of academic research is conducted under a very strict code of ethics which protects your interests, most people find it a great opportunity to tell things as they really are. A bit like confiding to a very close friend, doctor, lawyer or priest.

If I need any clarification when I'm writing up my notes afterwards, I'll telephone, if that's OK I may also want to show you a summary of these for you to check, correct and add anything else that you want. If so, I'll contact you to make arrangements either to bring them round or send them to you.

So, is it all right if we schedule through until, say,.... (time) for now?

NOTES

- All questions do not relate to all actors, but may overlap.
- Adapt phrasing of questions to suit respondent and circumstance. Encourage respondent to sound off & "tell it like it is".
- Answers may be given in advance of questions.
- Follow such fruitful avenues, using them to answer questions.
- Know the questions then adjust order to link & guide discussion.
- Be prepared for silences whilst respondent thinks.
- It is not necessary to ask all questions to get all/most answers.
- Develop empathy, but be matter of fact impartial.
- Resist surprise and remain non-judgmental.

REMEMBER, easy, general questions first. Develop depth from these.

Use spaces for notes. Extend/write up immediately after.

A. Can you tell me something about your organisation?

1. BACKGROUND:

- a. No. employed:
 - b. When formed:
 - c. Turnover/Budget:
 - d. Self description:
-

2. ORGANISATION STRUCTURE:

- a. No's. reporting to you:
 - b. Type of people reporting:
 - c. Who you report to:
 - d. Who they report to:
-

3. MOTIVATIONS

- a. Philosophy:
 - b. Policy:
 - c. Objectives:
 - d. Guiding criteria:
 - e. Who is it accountable to:
 - f. In what terms is it accountable:
 - g. How does it view regulations: (e.g. changeable, immutable, desirable, nuisance, useful, etc.)
-

B. Can you now tell me a little about yourself?

- 4. BACKGROUND (Sex: Race: Disposition:)
- a. About how old are you:
- b. Education:

- c. Qualifications:
- d. Experience:
- f. How long in post:

5. CIRCUMSTANCES

- a. Family:
- b. How long in area:
- c. Salary band (Df): 30-45K, 45-75K, 75-105K, 105-150K, 150-225K, 225-300K, 300K+
- d. Spare time: (business contacts)

6. VIEWS - Treat gently.

"How would you express your views on....."

- a. Business?
- b. Profits?
- c. Market economy?
- d. Politics?
- e. Religion?
- f. Bargaining?
- g. In some countries Corruption is almost institutionalised. How would you define it?

7. JOB (Can you tell me if and how you have ever experienced ... ?)

- a Entertaining:
- b Socialising:
- c. Persuasion:
- d. Donations:
- e. Gifts:
- f. Coercion:
- g. Manipulating regulations:

C. Can I now ask about one particular development that you/your organisation were associated with recently? (specify development)

8. MARKETS & ECONOMICS When you were contemplating this development

- a. What was your interest in the land?
- b. How was this interest acquired?
- c. What did this interest cost?
- d. How long had it been held?
- e. What market forces were relevant?

- demand)
- supply)
- int.rate)
- unemplmt)
- other)

- f. How did these change over time?
- g. What state were your finances in?

9. **SPECIFIC QUESTIONS** on the particular development. (see separate sheets)

Were you aware of, or did you suspect the presence of, any hidden agenda in this process?

How?

Why?

What?

Whose?

D. Can we now look at
 RULES & REGULATIONS

10. **RANGE**

- a. What were the main rules and regulations that concerned you and why?

- planning)
- taxation)
- ownership)
- tenure)
- environment)
- incentives)
- investment)
- company)
- other)

- b. How were these structured?
- c. Were they practicable and how enforced?
- d. To what extent could these cause you difficulties/problems?
- e. How were you able to address these difficulties/problems?
- f. Were proposals adapted to suit regulations & if so how?
- g. i. Which regulations were most advantageous to you?
- ii. Why?
- iii. How?

11. **RIGIDITY/FLEXIBILITY**

- a. Which of these did you find most rigid and which most flexible?

- planning)
- taxation)
- ownership)
- tenure)
- environment)
- incentives)

- investment)
- company)
- other)

b. How?

c. Why?

12. CHANGES

a. Which if any have been changed?

i. When?

ii. Why?

iii. How?

b. Why do you think that others have been unchanged?

c. Are they?

i. relevant?

ii. appropriate?

13. INFLUENCE

a. What do you think influenced the way that these were used?
(e.g. size and type of project, internal/external pressure, etc.)

- planning)
- taxation)
- ownership)
- tenure)
- environment)
- incentives)
- investment)
- company)
- other)

E. Can we now look at what the situation was at that time with....

13. POLITICS

a. Who were the dominant parties?

b. What and who drove them?

c. What obligations did they have to:-

- ideology?
- national party?
- individuals?

d. How were they controlled?

e. How were they financed?

c. How did they adapt ideology to local circumstances?

14. POLITICIANS

- a. Why were politicians in politics?
 - b. What did they see as their role?
 - f. How committed were they to party ideology?
 - g. How did they adapt this to local circumstances?
 - c. How much time did they give to politics:
 - i. formally?
 - ii. informally?
 - d. How were local politicians financed?
 - e. What personal/family benefits did they receive?
(trips, functions, knowledge, etc.)
 - h. How prepared were they to "bend" to represent the electorate?
 - i. How willing to "bend" were they to remain elected?
 - j. How were they regarded by the community?
 - k. What was their standing v the local MP's?
-

15. OTHER CONSIDERATIONS.

- a. What, if any, other considerations significantly affected the decision to allocate this land for development:
 - i. by owner?
 - ii. by developer?
 - iii. by L/A?
 - iv. by Ntl Gvt?
 - v. by others?
 - b. What pressures bore upon its allocation?
 - i. from where?
 - ii. when?
 - c. what political processes were gone through?
 - d. what policy processes were gone through?
-

F. POLICIES & PROCESSES.

With regard to the regulations identified as impacting on this development:-

16.

- a.
 - i. When were policies determined?
 - i. how?
 - ii. by whom?

- iii. How were they converted to regulation?
 - b. What review processes are they subject to?
 - c. How do such policies get changed and how often?
 - d. How are existing regulations adapted to these policies?
 - e. How "fluid" or fixed is the political influence on them?
-

17. DECISIONS

- a. What type of decision was involved?
 - i. regulatory?
 - ii. discretionary?
 - iii. mutated?
- b. What rules existed for exercising decision?
 - i. legal?
 - ii. procedural?
 - iii. consultative?
- c.
 - i. Where did the power of decision reside?
 - ii. Where was it derived from?
 - iii. How was it exercised?
 - iv. Why was it exercised in this way?
- d.
 - i. Who was the decision maker accountable to?
 - ii. Who could challenge the decision?
 - iii. Who could override the decision?

G. PRACTICES & IMPLICATIONS

I would now appreciate your personal observations on what has emerged from our discussion:

18. Which, if any, parts of the regulatory system are:

- a. overridden/circumvented?
 - i. why?
 - ii. evidence of this?
 - iii. with what regularity?
- c. distorted/abused?
 - i. why?
 - ii. evidence of this?
 - iii. with what regularity?
- d. robust and fully implemented?
 - i. why?
 - ii. evidence of this?
 - iii. with what regularity?

19.

- a. What are the implications of this for policy and practice:
 - i. locally?
 - ii. regionally?
 - iii. nationally?
 - iv. within EC/SEM?
 - v. for environment?
 - vi. for business?
 - vii. for society?

20. FACTOR BALANCE

What do you think was the relative balance between:-

- a. political influence?
- b. policy driven regulations?
- c. market considerations?

IMMEDIATE POST INTERVIEW NOTES:

1. Situation:
 - . Ambience:
 - . Comfort:
 - . Interruptions:
2. Manifest behaviour:
 - . Reception:
 - . Interest:
 - . Desire to help:
 - . Willingness to give time:
3. Body language:
 - eye contact:
 - posturing:
 - concealment:
4. Relationship established:
6. Assessment (score 1 = low, 10 = high):
 - . truthfulness:
 - . accuracy:
 - . verification:
 - . validity:
 - . importance of evidence.
5. General feelings + satisfaction with outcome:
6. Connection between this actor and others:
7. New information/viewpoints emerging:
8. Describe the reality of practices:
9. Identify actors true motivations:
10. Additional possible hidden agendas:
11. Degree of influence this actor had on decision:
12. Relative strengths and weaknesses of this actor:

RELEVANT INFORMATION OBTAINED ON OTHER CASES

Record anything that the interviewee might tell you about other people, situations or cases, to illustrate points being made.

| The Interdisciplinary Research Team | | | | | |
|--|-----------------------------|------------|--------------------------|-----------------------|-----------------------------|
| Case/s | Name | Age 06- 93 | Institution | Studying | Qualifications |
| E-08, E-11 | Benfield <i>Guy</i> | 28 | London Wye | | BSc. <i>Horticulture</i> |
| | | | Birmingham Uni. | <i>Final complete</i> | Dip.LA |
| E-10 # | Benfield <i>Michael</i> | 52 | Newcastle Uni. | PhD yr. 2 | MA |
| E-05 | Fung Chan But <i>Fanny</i> | 27 | Newcastle Uni. | MA EPDP | BSc. <i>Economics</i> |
| E-01 | MacDowell <i>Emily</i> | 23 | Newcastle Uni. | <i>Final complete</i> | BA <i>Planning</i> |
| E-07, E-09 | Morris <i>Lucy</i> | 25 | Newcastle Uni. | MA EPDP | BSc |
| E-03 @ | Nelson <i>Graham</i> | 23 | Newcastle Uni. | <i>Final complete</i> | BA <i>Planning</i> |
| All file searches | Olusuga <i>Elizabeth</i> | 23 | Newcastle Uni. | <i>Final complete</i> | BA <i>Geography</i> |
| E-06 | Parkin <i>Sarah</i> | 23 | Newcastle Uni. | <i>Final complete</i> | BA <i>Planning</i> |
| E-02 | Reynolds <i>Mark</i> | 24 | Newcastle Uni. | <i>Final complete</i> | BA <i>Planning</i> |
| E-04 | Wedderburn <i>Mathew</i> | 25 | Newcastle Uni | MA EPDP | BA <i>Geography</i> |
| H-01, H-05* | Hoogerbrugge <i>Marco</i> | 22 | Amsterdam Uni. | Planning 3rd yr. | Drs.H <i>Planning</i> |
| H-04* | Jacobs <i>Casper</i> | 25 | Amsterdam Uni. | Planning 5th yr. | Drs.H <i>Planning</i> |
| H-03* | Karssenber <i>Hansevert</i> | 26 | Amsterdam Uni. | <i>Final complete</i> | Drs.H <i>Planning</i> |
| H-02 | Laven <i>Jeroen</i> | 23 | Amsterdam Uni. | Planning 4th. yr. | Drs.H <i>Planning</i> |
| D-01, D-02 | Wagner <i>Jeannette</i> | 25 | Dortmund Uni. | Planning final yr. | |
| I-01 | Scarasciulli <i>Luigi</i> | 24 | COREP Torino | Euro property (M) | Dr. <i>Sociology</i> |
| I-02 | Catella <i>Manfredi</i> | 24 | COREP Torino | Euro propty (M) | Dr. <i>Economics</i> |
| I-03, I-04, I-05 | Florio <i>Simona</i> | 25 | London Uni. | Euro propty (M) | BA <i>Geography</i> |
| EE-01, EE-02 | Karssenber <i>Hansevert</i> | 26 | Amsterdam Uni. | <i>Final complete</i> | Drs.H <i>Planning</i> |
| | with local assistance from | | | | |
| | Soóki-Tóth <i>Gábor</i> | 29 | Budapest Uni. | | Arch. Ing. |
| | Cseh <i>Zsolt</i> | 31 | Budapest Uni. | | Arch. Ing. |
| EE-03*, EE-04* | Jacobs <i>Casper</i> | 25 | Amsterdam Uni. | Planning 5th yr. | Drs.H <i>Planning</i> |
| | with local assistance from | | | | |
| | Martin <i>Juraneck</i> | 28 | Brno Uni. | Architecture (M) | Dipl. Ing |
| F-05 | Charles <i>Vathalie</i> | 25 | | | Licence |
| | | | IUG | DESS yr. 2 | Matrise <i>Arabhistory</i> |
| F-02 | Cheurlin <i>Patricia</i> | 36 | | Licence | Diplôme <i>Geography</i> |
| | | | IUG | DESS yr. 2 | Architect dip.l.g. |
| F-01 | Franchet <i>Cecile</i> | 27 | | | Licence <i>Sociology</i> |
| | | | | | Matrise <i>Sociology</i> |
| | | | IUG | DESS yr. 2 | Diplôme |
| F-04* | Robert <i>Valerie</i> | 28 | | | Diplôme <i>Pedagogie</i> |
| | | | | | Matrise <i>Geography</i> |
| | | | IUG | <i>Final complete</i> | DESS |
| F-03* | Vitali <i>Lisa</i> | 23 | | | Maitrise <i>Socialecon.</i> |
| | | | IUG | <i>Final complete</i> | DESS |
| TEAM. | | | TASK: | | |
| 1 Principle Researcher | | | 11 UK cases | | |
| 1 File search assistant in UK | | | 17 Continental EU cases | | |
| 24 Individual case research assistants | | | 4 Eastern European cases | | |
| 26 researchers | | | 32 cases | | |
| # Michael Benfield worked on all file searches and cases except those marked *. He also helped to complete E-01, E-05. | | | | | |
| @ Graham Nelson also helped complete E-01, E-05, and E-06. | | | | | |

The interdisciplinary RA 'Research Team', interests and backgrounds

Schedule of interviews by country and case

... showing the views of interviewees/informants, the balance which they accorded to the factors involved in decisions, and anecdotal evidence provided by them under the headings which emerged from the research.

| ENGLISH CASES | | | | | | | | | | | | | | | | | | | | | |
|--------------------|------|-------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------|---------|-----------|----------------|------------|---------------|------------------|-----------------|---|
| QV&A.XLS - sheet 4 | | | | | | | | | | | | | | | | | | | | | |
| Ref.No | Agcy | Actor | Actors Views | | | | | | | | | Factor balance | | | Anecdotal | | | | No of Interviews | | |
| | | | Soft influence | Hard Influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | | Cmc'l collusion | |
| E-01/1 | LA | Case off. | 1 | 1 | | | | 1 | | | | | | | | | | | | 1 | |
| E-01 2 | UDC | Planner | 1 | | 1 | | 1 | 1 | | | | | | | | | | | | 1 | |
| E-01 3 | Dev | Director | | 1 | | | | 1 | | | | | | | | | | | | 1 | |
| E-01 4 | UDC | Director | | 1 | 1 | | 1 | 1 | | | 1 | 1 | 1 | 3 | 2 | | 1 | 1 | | 1 | |
| E-01 5 | Arch | Assoc. | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 3 | 2 | 1 | | | | | 1 | |
| | | E-01 Ttl | 3 | 4 | 3 | 0 | 3 | 5 | 1 | 0 | 1 | 1 | 2 | 2 | 2 | | 1 | 1 | 0 | 0 | 5 |
| E-02/1 | LA | Case off. | 1 | 1 | | | 1 | | | 1 | | | | | | | | | | 1 | |
| E-02 2 | Dev | Plan agt | 1 | 1 | 1 | | | | | | | | | | | | | | | 1 | |
| E-02/3 | Use | Director | 1 | 1 | 1 | | | 1 | 1 | | | | | | | | | | | 1 | |
| | | E-02 Ttl | 3 | 3 | 2 | 0 | 1 | 1 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | | 0 | 0 | 0 | 0 | 3 |
| E-03/1 | LA | Case off. | 1 | 1 | 1 | | 1 | | 1 | | | | 2 | 3 | 1 | | | | | 1 | |
| E-03 2 | LA | CPO asst | 1 | 1 | 1 | | 1 | | | | | | | | | | 1 | 1 | | 1 | |
| E-03 3 | Cllr | Ward | 1 | | 1 | | 1 | | 1 | | | | 1 | 3 | 2 | | | | | 1 | |
| E-03 4 | Dev | Director | 1 | | | | | | | | | | 3 | 1 | 2 | | 1 | | | 1 | |
| F-03 5 | Inst | Officer | | | 1 | | | | | | | | | | | | | | | 1 | |
| E-03 6 | Own | Director | 1 | | | | | 1 | | | 1 | | 3 | 1 | 2 | | | | | 1 | |
| | | E-03 Ttl | 5 | 2 | 4 | 0 | 3 | 1 | 2 | 0 | 1 | 0 | 4 | 4 | 4 | | 0 | 2 | 1 | 0 | 6 |
| E-04/1 | LA | Envir. off. | | | 1 | | | | 1 | | | | 2 | 3 | 1 | | 1 | | | 1 | |
| F-04/2 | Arch | Assoc. | | | 1 | | | 1 | 1 | | 1 | | 1 | 3 | 2 | | 1 | | | 1 | |
| F-04 3 | LA | Area plnr | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | | | | | | | 1 | | 1 | |
| F-04 4 | Own | Director | | | | | | | 1 | | 1 | | | | | | | | | 1 | |
| F-04 5 | Inst | Officer | 1 | 1 | 1 | | | | | | | | | | | | | | | 1 | |
| | | E-04 Ttl | 2 | 2 | 4 | 0 | 1 | 2 | 4 | 1 | 2 | 0 | 2 | 2 | 2 | | 2 | 1 | 0 | 0 | 5 |
| E-05/1 | LA | Case off. | 1 | | | | 1 | | | 1 | | | 1 | 3 | 1 | | | | | 1 | |
| F-05/2 | Cllr | Ward | 1 | | 1 | | 1 | | 1 | 1 | | | 1 | 2 | 3 | | | | | 1 | |
| E-05 3 | Own | Director | | | | | 1 | | 1 | | | | | | | | | | | 1 | |
| E-05 4 | Arch | Assoc. | 1 | | 1 | | | | | | | | | | | | 1 | | | 1 | |
| E-05 5 | Dev | Director | 1 | 1 | 1 | | 1 | 1 | | | | | 2 | 2 | 1 | | | | | 1 | |
| F-05 6 | Use | Director | 1 | 1 | 1 | | 1 | | | 1 | | | 2 | 3 | 1 | | 1 | | 1 | 1 | |
| | | E-05 Ttl | 5 | 2 | 4 | 3 | 2 | 3 | 1 | 2 | 0 | 0 | 4 | 4 | 4 | | 0 | 2 | 0 | 1 | 6 |
| E-06/1 | LA | Case off. | 1 | 1 | 1 | | 1 | 1 | | | | | 3 | 2 | 1 | | 1 | | | 1 | |
| E-06 2 | Dev | Plg agent | 1 | | | | | | | | | | 3 | 1 | 1 | | | | | 1 | |
| | | E-06 Ttl | 2 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | 2 | 2 | | 1 | 0 | 0 | 0 | 2 |
| E-07/1 | Cllr | Ward | 1 | 1 | | | 1 | 1 | 1 | | | | 3 | 2 | 1 | | | | | 1 | |
| E-07/2 | LA | Case off. | 1 | 1 | 1 | | | | 1 | | | | 2 | 1 | 2 | | | | | 1 | |
| E-07 3 | Own | Director | 1 | 1 | 1 | | | 1 | 1 | | | | 3 | 2 | 1 | | | | | 1 | |
| E-07 4 | Own | Director | 1 | 1 | 1 | | | 1 | 1 | | | | 1 | 1 | 1 | | | | | 1 | |
| E-07 5 | Dev | Director | 1 | 1 | 1 | | | 1 | | | 1 | | 3 | 2 | 1 | | 1 | 1 | | 1 | |
| | | E-07 Ttl | 5 | 5 | 4 | 0 | 1 | 4 | 4 | 0 | 1 | 0 | 5 | 5 | 5 | | 0 | 1 | 1 | 0 | 5 |
| E-08/1 | Arch | Assoc. | 1 | 1 | 1 | | 1 | | | | | | 2 | 3 | 1 | | | | | 1 | |
| E-08 2 | LA | Case off. | 1 | | 1 | | | | | | | | | | | | | | | 1 | |
| E-08 3 | Dev | Plg agent | | | | | 1 | | 1 | | 1 | | 1 | 3 | 2 | | | | | 1 | |
| E-08 4 | LA | Case off. | | | | | | | 1 | | | | | | | | | | | 1 | |
| | | E-08 Ttl | 2 | 1 | 2 | 0 | 2 | 0 | 2 | 0 | 0 | 1 | 2 | 2 | 2 | | 0 | 0 | 0 | 0 | 4 |

English cases, continued:-

| Ref.No | Agcy | Actor | Actors Views | | | | | | | | | | Factor balance | | | Anecdotal | | | | No of Interviews |
|------------------|------|-----------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|----------------|------------|---------------|-----------------|------------------|
| | | | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Alm over-rides | Corruption | Chiefs decide | Cmc'l collusion | |
| E-09/1 | Own | Director | 1 | 1 | 1 | | | | | 1 | | 1 | 3 | 1 | | 1 | | | 1 | |
| E-09 2 | Cllr | Ward | 1 | | | 1 | | | | | | 1 | 3 | 1 | | | 1 | | 1 | |
| E-09 3 | LA | Case off. | 1 | 1 | 1 | | | | | 1 | | 1 | 1 | 1 | | 1 | | | 1 | |
| E-09 4 | Pub | Res. Assn | | | 1 | | 1 | 1 | 1 | | | 1 | 3 | 1 | 1 | 1 | | | 1 | |
| E-09 5 | Own | Plg agent | 1 | | 1 | 1 | 1 | 1 | 1 | | | 1 | 2 | | 1 | 1 | | | 1 | |
| | | E-09 Ttl | 4 | 2 | 4 | 2 | 2 | 2 | 2 | 2 | 0 | 0 | 5 | 5 | 4 | 2 | 3 | 2 | 0 | 5 |
| E-10/1 | Dev | Plg agent | 1 | 1 | 1 | 1 | | 1 | | 1 | | 2 | 2 | 1 | 1 | | 1 | | 1 | |
| E-10 2 | Dev | Director | 1 | 1 | 1 | | | 1 | | 1 | | 1 | 3 | 1 | | 1 | 1 | | 1 | |
| E-10 3 | Cllr | Ward | 1 | 1 | | 1 | 1 | | 1 | | | 1 | 1 | 1 | | 1 | 1 | | 1 | |
| E-10 4 | LA | Case off | 1 | 1 | 1 | | | | 1 | 1 | | 2 | 1 | 2 | 1 | | | | 1 | |
| E-10 5 | Own | Director | 1 | 1 | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | |
| | | E-10 Ttl | 5 | 5 | 3 | 2 | 1 | 3 | 2 | 3 | 0 | 3 | 5 | 5 | 5 | 3 | 2 | 4 | 0 | 5 |
| E-11/1 | Own | Lawyer | 1 | | | | | 1 | | | | | | | | | | | 1 | |
| E-11/2 | Own | Director | | | | | | | | | | | | | | | | | 1 | |
| E-11 3 | Own | Plg agent | 1 | 1 | | | | 1 | | | | | | | | | 1 | | 1 | |
| E-11 4 | Arch | Assoc | | | | | | | | | | | | | | | | | 1 | |
| E-11 5 | LA | Case off. | 1 | | | | | | | 1 | | | | | | | | | 1 | |
| | | E-11 Ttl | 3 | 1 | 0 | 0 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 5 |
| | | Grand Ttl | 40 | 29 | 32 | 9 | 18 | 25 | 20 | 11 | 6 | 6 | 33 | 32 | 31 | 11 | 14 | 9 | 2 | 51 |
| | | | Sum. | | | | | | | | | | 86 | 97 | 70 | | | | | |
| Percentage of 51 | | | 78 | 57 | 63 | 18 | 35 | 49 | 39 | 22 | 12 | 12 | | | | 22 | 27 | 18 | 4 | 100 |

Mainland EU by CASES

QV&A/EU.XLS

| QV&A/EU.XLS | | | Actors views | | | | | | | | | | Anecdotal | | | | | | | | |
|-------------|--------|---------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|---|----------------|------------|---------------|-----------------|-------------------|
| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Factor balance | | | | Aim over-rides | Corruption | Chiefs decide | Cmc'l collusion | No. of interviews |
| | | | | | | | | | | | | | Politics | Markets | Rules | | | | | | |
| N-gen/1 | Inst | Director | | 1 | 1 | | 1 | | | | | 1 | | | | | | | | | |
| N-gen 2 | Dev | Director | | 1 | 1 | | 1 | | 1 | | | 1 | | | | | | 1 | | | |
| N-gen/3 | LA | CB Officer | | 1 | 1 | | 1 | | 1 | | | 1 | | | | | 1 | | | | |
| N-gen 4 | Nat'l | Inspector | | | | | 1 | 1 | 1 | | | 1 | | | | | 1 | | | | |
| N-gen 5 | Inst | Architect | | | | | 1 | | | | | 1 | | | | | | | | | |
| N-gen 6 | Inst | Lecturer | | | | | 1 | | 1 | | | 1 | | | | | | | | | |
| | | N-Gen | 0 | 3 | 3 | 0 | 6 | 1 | 4 | 0 | 0 | 6 | 0 | 0 | 0 | 2 | 1 | 1 | 0 | | 6 |
| N-01/1 | Owner | LA director | 1 | 1 | 1 | | | | 1 | | | | 2 | 3 | 1 | | | 1 | | | |
| N-01/2 | LA | B Officer | 1 | | 1 | | | | | | | | 1 | 2 | 1 | | | | | | |
| N-01/3 | Dev | Director | 1 | 1 | | 1 | 1 | | 1 | | | | 1 | 1 | 1 | | | | | | |
| N-01 4 | Cncllr | Ward | | 1 | | 1 | | | 1 | | | | 1 | 2 | 1 | | | 1 | | | |
| N-01 5 | LA | Architect | 1 | 1 | | 1 | 1 | | 1 | | | | 1 | 2 | 2 | | | 1 | | | |
| | | N-01 | 4 | 4 | 2 | 3 | 2 | 0 | 4 | 0 | 0 | 0 | 5 | 5 | 5 | 0 | 0 | 3 | 0 | | 5 |
| N-02/1 | Owner | LA director | 1 | 1 | 1 | 1 | | | 1 | | 1 | | 2 | 1 | 3 | | | 1 | | | |
| N-02/2 | Owner | LA assistant | 1 | | 1 | 1 | | | | | 1 | | 3 | 1 | 1 | 1 | | | | | |
| N-02/3 | LA | CB Officer | | | 1 | | 1 | | 1 | | 1 | | 3 | 1 | 1 | 1 | 1 | | | | |
| N-02 4 | Gov't | Officer | | | 1 | | | | 1 | | | | 2 | 1 | 2 | 1 | | | | | |
| N-02 5 | Dev. | Director | 1 | 1 | 1 | | 1 | | | | 1 | | 2 | 1 | 3 | 1 | 1 | 1 | | | |
| N-02 6 | LA | Planning Off. | | | | | | | 1 | | 1 | | 2 | 1 | 2 | 1 | 1 | | | | |
| N-02/7 | Arch. | Prncipal | | | 1 | | 1 | | | | | | | | | | | | | | |
| | | N-02 | 3 | 2 | 6 | 2 | 3 | 0 | 4 | 0 | 5 | 0 | 6 | 6 | 6 | 5 | 3 | 2 | 0 | | 7 |
| N-03 1 | LA | B. officer | 1 | | 1 | | 1 | 1 | | | | 1 | | | | | | 1 | | | |
| N-03/2 | LA | Plng officer | | | | | 1 | | | | | 1 | | | | | | 1 | | | |
| N-03/3 | User | Director | | | 1 | | | | | | | | | | | | | 1 | | | |
| | | N-03 | 1 | 0 | 2 | 0 | 2 | 1 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 3 | 0 | | 3 |
| N-04 1 | LA | B Officer | | | | | 1 | | 1 | | | 1 | | | | | | | | | |
| N-04/2 | Gov't | Env officer | | | | | 1 | | 1 | | | 1 | | | | | | | | | |
| N-04/3 | Cllr | Ward | | | | | | | | | | 1 | | | | | | | | | |
| N-04 4 | User | Director | 1 | 1 | 1 | | 1 | | | | | | | | | | | | | | |
| | | N-04 | 1 | 1 | 1 | 0 | 3 | 0 | 2 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | | 4 |
| N-05/1 | LA | B Officer | 1 | | | 1 | | | | | | | 1 | 1 | 1 | | 1 | | | | |
| N-05/2 | Arch | Associate | 1 | | | | | | | | | | 2 | 1 | 3 | | | 1 | | | |
| N-05/3 | Dev, | Director | 1 | 1 | | 1 | | | | | | | 1 | 1 | 1 | | | | | | |
| N-05 4 | Cllr | Senior | 1 | | | | 1 | | | | | | 1 | 1 | 1 | | | 1 | | | |
| N-05 5 | LA | Plng officer | 1 | | | | 1 | | | | | | 2 | 1 | 2 | | 1 | | | | |
| | | N-05 | 5 | 1 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 5 | 5 | 5 | 0 | 2 | 2 | 0 | | 5 |
| | | Netherlands | 14 | 11 | 14 | 7 | 18 | 2 | 14 | 0 | 5 | 11 | 16 | 16 | 16 | 7 | 6 | 11 | 0 | | 30 |
| D-gen/25 | LA | Dept head | | 1 | 1 | | 1 | | 1 | | | | | | | | | 1 | | | |
| D-gen 34 | LA | CPO | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | | | | 1 | 1 | 1 | 1 | | |
| D-gen 41 | Agency | officer | | | | | | 1 | | | | | | | | | 1 | | | | |
| D-gen 42 | LA | CBO | | | 1 | | 1 | | 1 | | | 1 | | | | 1 | | | | | |
| D-gen 47 | Inst. | Professor | | | 1 | | | | | | | | | | | | | | | | |
| D-gen 49 | Cnclr | Green poltn | | | | | 1 | 1 | | | | 1 | | | | | 1 | 1 | | | |
| D-gen 67 | Inst. | Professor | | | | | 1 | 1 | 1 | | 1 | 1 | | | | 1 | | | | | |
| D-gen 82 | Owner | Lawyer | | | | | 1 | 1 | 1 | | 1 | 1 | | | | 1 | 1 | 1 | 1 | | |
| D-gen/78 | Instn. | Researcher | | | 1 | | 1 | | | | | 1 | | | | 1 | 1 | | | | |
| | | D-gen | 1 | 2 | 5 | 0 | 6 | 6 | 5 | 0 | 3 | 6 | 0 | 0 | 0 | 5 | 5 | 4 | 2 | | 10 |

Mainland EU, continued

| Ref.No | Agcy | Actor | Actors Views | | | | | | | | | | Factor balance | | | Anecdotal | | | | No of Interviews |
|------------|--------|----------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|----------------|------------|---------------|-----------------|------------------|
| | | | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | Cmc'l collusion | |
| D-01/1 | LA | B Officer | | | | | 1 | | 1 | | 1 | 1 | 2 | 3 | | | 1 | | | |
| D-01 2 | LA | Plng Officer | 1 | | 1 | | 1 | 1 | 1 | | | | 2 | 3 | | 1 | | | | |
| D-01 3 | Cllr | Senior polit'n | 1 | | 1 | | 1 | 1 | | | 1 | 2 | 1 | 3 | | 1 | 1 | | | |
| D-01 4 | Dev.1 | Director | 1 | 1 | | | | 1 | 1 | | 1 | 2 | 1 | 3 | | | 1 | | | |
| D-01 5 | Arch. | Assoc. | 1 | | | | | 1 | 1 | | 1 | 2 | 1 | 3 | | 1 | 1 | | | |
| D-01 6 | Dev2 | Director | | | | | | | | | | 2 | 1 | 3 | | | | | | |
| | | D-01 | 4 | 1 | 2 | 0 | 3 | 4 | 4 | 0 | 0 | 4 | 6 | 6 | 6 | 0 | 3 | 4 | 0 | 6 |
| D-02/1 | LA | B officer | | 1 | | 1 | | | 1 | | 1 | | 2 | 2 | 2 | | 1 | | | |
| D-02 2 | LA | Plng officer | 1 | 1 | 1 | | | | 1 | | 1 | 1 | 2 | 1 | 2 | | | | | |
| D-02 3 | Arch. | Associate | 1 | | 1 | 1 | | | | | | 3 | 1 | 2 | 1 | | | | | |
| | | D-02 | 2 | 2 | 2 | 2 | 0 | 0 | 2 | 0 | 1 | 2 | 2 | 3 | 3 | 1 | 1 | 0 | 0 | 3 |
| | | Germany | 7 | 5 | 9 | 2 | 9 | 10 | 11 | 0 | 4 | 12 | 8 | 9 | 9 | 6 | 9 | 8 | 2 | 19 |
| I-gen/CdB | Owner | Lawyer | | 1 | 1 | | 1 | 1 | | | 1 | 1 | | | | | 1 | 1 | | |
| I-gen/LFM | Cncllr | Ex-Assessore | | | 1 | | | | | | 1 | | | | | 1 | 1 | 1 | | |
| I-gen/FS | Cncllr | Mayor | 1 | | 1 | | 1 | 1 | 1 | | | | | | | | | | | |
| I-gen GI | Arch | Principal | | | 1 | | 1 | 1 | 1 | | 1 | | | | | 1 | 1 | | | |
| I-gen/VC 8 | Cncllr | Mayor | | | 1 | | 1 | 1 | 1 | | | 1 | | | | | 1 | 1 | 1 | |
| I-gen/VT | LA | CBO | 1 | | | 1 | | 1 | | 1 | 1 | | | | | | | | | |
| I-gen/DB | Instn | Professor | 1 | 1 | | | | 1 | | | 1 | | | | | 1 | 1 | | | |
| I-gen AB | Instn. | H of Research | 1 | | | | 1 | 1 | 1 | | | | | | | 1 | | | | |
| I-gen/D | Instn | Economist | | | | | | | | | 1 | | | | | | 1 | 1 | | |
| I-gen GV | LA | Engineer | | | | | | 1 | 1 | | | | | | | 1 | | | | |
| I-gen C | Dev | Principal | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | | | | | 1 | 1 | | |
| | | I-gen | 6 | 4 | 7 | 2 | 7 | 10 | 7 | 2 | 8 | 4 | 1 | 1 | 1 | 6 | 8 | 4 | 4 | 11 |
| I-01/1 | Cncllr | Town Gvt | | | 1 | | 1 | 1 | 1 | | 1 | | | | | 1 | | | | |
| I-01 2 | Cncllr | Region Gvt | | | | | | | 1 | | | | | 3 | | | | | | |
| I-01 3 | Cncllr | Parish mbr | | | 1 | | 1 | | | | | | | | | | 1 | | | |
| I-01 4 | LA | Cmcl official | | | | | | 1 | 1 | | | | | | | | | | | |
| I-01 5 | LA | Plng officer | | | | | | | | | | | | | | | | | | |
| | | I-01 | 0 | 0 | 2 | 0 | 2 | 2 | 3 | 0 | 1 | 0 | 0 | 1 | 0 | 1 | 1 | 0 | 0 | 5 |
| I-02/1 | LA | CPO | 1 | 1 | 1 | | | | 1 | | | | | | 3 | | 1 | | | |
| I-02/2 | Cncllr | Member | | 1 | 1 | | | 1 | | | | | | 3 | | | 1 | | | |
| I-02/3 | Arch | Ex Assesore | 1 | 1 | 1 | | | 1 | | | | 1 | 1 | 1 | | | 1 | | | |
| I-02/4 | Arch | Project | 1 | 1 | 1 | | | | 1 | | | | 1 | 1 | | | 1 | | | |
| I-02/5 | Instn | Professor | 1 | 1 | 1 | | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | | | |
| | | I-02 | 4 | 5 | 5 | 0 | 0 | 2 | 3 | 0 | 0 | 1 | 3 | 4 | 3 | 0 | 5 | 0 | 0 | 5 |
| I-03/1 | Dev | Ing | 1 | | 1 | | 1 | | 1 | | | | 2 | 3 | 1 | | | | 1 | |
| I-03 2 | LA | CBO | 1 | 1 | | | | | | | | | | | | | | | | |
| I-03 3 | LA | ExAssessore | 1 | 1 | 1 | | 1 | | | | | | | | | | 1 | | | |
| | | I-03 | 3 | 2 | 2 | 0 | 2 | 0 | 1 | 0 | 0 | 0 | 2 | 3 | 1 | 0 | 1 | 0 | 1 | 3 |
| I-04/1 | LA | Assessore | 1 | 1 | | | 1 | 1 | | | | | | 3 | 1 | | | | | |
| I-04 2 | Cncllr | Reg. VP | 1 | 1 | 1 | | | | | | | 1 | 2 | 3 | | | 1 | | | |
| I-04 3 | LA | Dpty BO | | | | | 1 | | | | | | 2 | 3 | | | | | | |
| I-04 4 | Owner | Proj. Mngr | | 1 | | | | | | | | 1 | 1 | 3 | 2 | | 1 | | | |
| I-04 5 | LA | Dpty PO | | | | | | | | 1 | | | 3 | | | | | | | |
| | | I-04 | 2 | 3 | 1 | 0 | 2 | 1 | 0 | 1 | 0 | 2 | 8 | 12 | 3 | 0 | 2 | 0 | 0 | 5 |
| I-05/1 | Dev. | Proj. Mngr | 1 | | | | 1 | | | | | 1 | 1 | 3 | 2 | | | | | |
| I-05 2 | LA | ExtExam/DW | 1 | 1 | | | 1 | | | | | | 1 | 3 | 2 | | | | | |
| I-05 3 | Dev. | M Director | 1 | 1 | 1 | | 1 | | | | | 1 | 2 | 2 | 1 | | | | | |
| I-05/4 | Owner | Principals | | 1 | | | 1 | | | | 1 | | 1 | 1 | | | 1 | | | |
| | | I-05 | 3 | 3 | 1 | 0 | 4 | 0 | 0 | 0 | 1 | 2 | 5 | 9 | 5 | 0 | 1 | 0 | 0 | 4 |
| | | Italy | 18 | 17 | 18 | 2 | 17 | 15 | 14 | 3 | 10 | 9 | 19 | 30 | 13 | 7 | 18 | 4 | 5 | 33 |

Mainland EU continued

| Ref.No | Agcy | Actor | Actors Views | | | | | | | | | | Factor balance | | | Anecdotal | | | | No of Interviews |
|-------------------|--------|---------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|----------------|------------|---------------|-----------------|------------------|
| | | | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | Cmc'l collusion | |
| F-gen/JCC | Gvt | Rgnl Rsrch | | | | | 1 | | 1 | | | | | | | 1 | 1 | | | |
| F-gen/MN | Instn. | Lecturer | | | 1 | | 1 | | 1 | | 1 | 1 | | | | 1 | 1 | | | |
| F-gen/MB | LA | Admin. office | | | | | 1 | | | | | 1 | | | | | | 1 | | |
| F-gen/DG | LA | CPO urbaniste | | | 1 | | 1 | 1 | 1 | | | | | | | 1 | 1 | | | |
| | | F-gen | 0 | 0 | 2 | 0 | 4 | 1 | 3 | 0 | 1 | 2 | 0 | 0 | 0 | 3 | 0 | 4 | 0 | 4 |
| F-01/1 | 3 Pty | Rsdnts Assoc | | | | | 1 | 1 | | | | | | | | 1 | | | | |
| F-01 2 | Dev. | SEM Dir. | 1 | | | | | | 1 | | | | | | | | | | | |
| F-01 3 | Dev. | SEB lawyer | | | | | | 1 | | | | 1 | | | | | | 1 | | |
| F-01 4 | Instn. | Cnsltnt PO | | | | | 1 | 1 | 1 | | | 1 | | | | 1 | 1 | | | |
| | | F-01 | 1 | 0 | 0 | 0 | 2 | 3 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | 4 |
| F-02/1 | Arch | Srvyr Pncpl | 1 | 1 | | | | | 1 | | | | 3 | 2 | 1 | 1 | 1 | | | |
| F-02/2 | Owner | Principal | 1 | | 1 | | 1 | | | | | | | | | | 1 | 1 | | |
| F-02/3 | Gvt | Urban agency | | | | | | | | | | 1 | | | | | | | | |
| F-02/4 | Arch | Project | 1 | | 1 | | | 1 | | | | | 3 | 2 | 1 | | 1 | | | |
| F-02/5 | Cncllr | Mayor | | | 1 | | 1 | 1 | | 1 | 1 | | | | | 1 | 1 | 1 | 1 | |
| F-02 6 | Dev. | HA director | 1 | 1 | | | | | | | | | | | | | 1 | 1 | | |
| | | F-02 | 4 | 2 | 3 | 0 | 2 | 2 | 1 | 1 | 1 | 1 | 6 | 4 | 2 | 2 | 5 | 3 | 1 | 6 |
| F-03/1 | Cncllr | Dpty Mayor | | | | | 1 | | 1 | | | | 2 | 1 | 3 | 1 | | 1 | | |
| F-03/2 | Arch 1 | Project | | | | | | | | | | | 3 | 1 | 2 | | | | | |
| F-03 3 | Arch 2 | Project | | | | | | | | | | | 3 | 1 | 1 | | | | | |
| F-03 4 | Dev. | Director | | | | | | | | | | | 1 | 3 | 1 | | | | | |
| F-03 5 | Gvt. | Cnslty | | | | | | | | | | | 1 | 1 | 3 | | | | | |
| F-03 6 | LA | B Officer | | | | | | | | | | | 2 | 3 | | | 1 | | | |
| | | F-03 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 12 | 10 | 10 | 1 | 1 | 1 | 0 | 6 |
| F-04/1 | LA | Bling officer | | | | | 1 | | | | | | 3 | 1 | 2 | | | 1 | | |
| F-04 2 | Arch | for LA | | | | | | 1 | | 1 | | | 2 | 1 | 2 | | | | | |
| F-04 3 | Dev | Director | | | | | | | | | | 1 | 2 | 3 | 1 | | | 1 | | |
| | | F-04 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 0 | 1 | 7 | 5 | 5 | 0 | 0 | 2 | 0 | 3 |
| F-05/1 | LA | B Officer | | | | | | 1 | 1 | 1 | | 1 | | | | 1 | | | | |
| F-05/2 | Cncllr | Dpty Mayor | | | 1 | | 1 | | | | | | | | | | | | | |
| F-05 3 | Arch | Pnnclpal | | | 1 | | | 1 | | | | | | | | 1 | | | | |
| F-05 4 | Owner | SEM Dir. | | | | | | | | | | 1 | | | | 1 | | | | |
| F-05 5 | Cncllr | Ex Dpty Myr | | 1 | 1 | | 1 | 1 | | | 1 | | | | | 1 | | 1 | 1 | |
| F-05 6 | Dev. | HA director | | | | | | | | | | | | | | | | | | |
| | | F-05 | 0 | 1 | 3 | 0 | 3 | 3 | 1 | 0 | 2 | 2 | 0 | 0 | 0 | 4 | 0 | 1 | 1 | 6 |
| | | France | 5 | 3 | 8 | 1 | 13 | 9 | 9 | 1 | 4 | 8 | 25 | 19 | 17 | 12 | 6 | 13 | 2 | 29 |
| Grand Total | | | 44 | 36 | 49 | 12 | 57 | 36 | 48 | 4 | 23 | 40 | 68 | 74 | 55 | 32 | 39 | 36 | 9 | 111 |
| Percentage of 111 | | | 40 | 32 | 44 | 11 | 51 | 32 | 43 | 4 | 21 | 36 | | | | 29 | 35 | 32 | 8 | 100 |

| Central Europe by CASES | | | | | | | | | | | | | | | | | | | | |
|-------------------------|--------|---------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|----------------|-------------------|------------|---------------|------------------|
| QV&AEU.XLS | | | Actors views | | | | | | | | | | Anecdotal | | | | No. of Interviews | | | |
| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Factor balance | | | Aim over-rides | | Corruption | Chiefs decide | C'mc'l collusion |
| | | | | | | | | | | | | | Politics | Markets | Rules | | | | | |
| EE-gen/S | Instn | Professor | | | | | 1 | | | | | 1 | 3 | 1 | 1 | | | | | 1 |
| EE-gen/M | Instn | Professor | | | | 1 | | | | | | | 1 | 1 | 2 | | | | | 1 |
| EE-gen/V | Cncllr | Mayor | 1 | 1 | 1 | | 1 | 1 | | | 1 | 1 | 3 | 2 | 1 | 1 | | 1 | 1 | 1 |
| EE-gen 4 | Gov't | Planning Sec. | | | | | 1 | 1 | 1 | | | | 3 | 1 | 2 | 1 | | 1 | | 1 |
| FE-gen/K | Instn | Law research | 1 | | 1 | | 1 | 1 | 1 | | 1 | | | | | | | | | 1 |
| | | EE-gen | 2 | 1 | 2 | 1 | 4 | 3 | 2 | 0 | 2 | 2 | 10 | 5 | 6 | 2 | 0 | 2 | 1 | 5 |
| EE-01/1 | LA | CA/CPO-1 | 1 | | | 1 | | | | | | 1 | 3 | 2 | 1 | | | | | 1 |
| EE-01 2 | LA | CA/CPO-2 | | 1 | 1 | | | 1 | 1 | 1 | 1 | | | | | | 1 | | | 1 |
| EE-01 3 | Owner | LA Director | | | | 1 | | | | | 1 | 1 | | | | | | 1 | | 1 |
| EE-01 4 | Cllr | Adj Mayor | | | | | | | | 1 | | | 1 | 3 | 2 | | | | | 1 |
| EE-01 5 | Dev. | Director | | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | | 1 |
| EE-01 6 | Arch. | Assoc. | 1 | 1 | 1 | | 1 | 1 | | | | | 2 | 3 | 1 | | 1 | 1 | | 1 |
| | | EE-01 | 2 | 3 | 3 | 2 | 2 | 3 | 2 | 2 | 3 | 3 | 7 | 9 | 5 | 0 | 3 | 3 | 0 | 6 |
| EE-02/1 | Arch | Assoc. | | | 1 | | 1 | 1 | 1 | | | | | | | | | | 1 | 1 |
| FE-02/2 | LA | CA/PO | 1 | 1 | 1 | | 1 | | | 1 | 1 | 1 | | | | | 1 | 1 | 1 | 1 |
| FE-02/3 | Dev | NTO director | | | | | | | | | | | | | | | 1 | 1 | | 1 |
| FE-02/4 | Dev. | Director | | | | | | 1 | | | | 1 | | | | | | | | 1 |
| FE-02/5 | Dev. | Director | | | | | | | | | | | | | | | | | | 1 |
| EE-02/6 | Dev. | Contractor | | | | | | | | | | | | | | | 1 | | | 1 |
| EE-02/7 | Arch. | Consultant | | | | | | | | | | | | | | | | 1 | | 1 |
| | | EE-02 | 1 | 1 | 2 | 0 | 2 | 2 | 1 | 1 | 1 | 2 | 0 | 0 | 0 | 1 | 2 | 3 | 2 | 7 |
| EE-03/1 | Arch | Principal | | | 1 | | 1 | 1 | | | | 1 | | | | | 1 | | | 1 |
| EE-03 2 | LA | B Officer | | | | | 1 | | | | | 1 | | | | | | | | 1 |
| EE-03 3 | Owner | Director | | | | | 1 | 1 | 1 | | | 1 | | | | | | | | 1 |
| | | EE-03 | 0 | 0 | 1 | 0 | 3 | 2 | 1 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 3 |
| EE-04/1 | Arch | Principal | 1 | 1 | | | 1 | | | | | | | | | | | | | 1 |
| FE-04 2 | LA | B Officer | 1 | 1 | 1 | | 1 | 1 | | | | | | | | | 1 | 1 | | 1 |
| EE-04 3 | Cncllr | Mayor | | | | | | | 1 | | | | | | | | 1 | 1 | | 1 |
| | | EE-04 | 2 | 2 | 1 | 0 | 2 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 1 | 2 | 0 | 3 |
| Grand Count | | | 7 | 7 | 9 | 3 | 13 | 11 | 7 | 3 | 6 | 10 | 17 | 14 | 11 | 4 | 7 | 10 | 3 | 24 |
| Percentage of 24 | | | 29 | 29 | 38 | 13 | 54 | 46 | 29 | 13 | 25 | 42 | | | | 17 | 29 | 42 | 13 | 100 |

Appendix 8
Schedule of Interviews by Agencies and Actors

| England by Agency & Actor | | | | | | | | | | | | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | Cmc'l collusion | No. of Interviews |
|--------------------------------------|------|-----------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|---------|-------|----------------|------------|---------------|-----------------|-------------------|
| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | | | | | | | |
| E-04 2 | Arch | Assoc | | | 1 | | | 1 | 1 | | 1 | | 1 | 3 | 2 | 1 | | | 4 |
| E-01/5 | Arch | Assoc. | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 3 | 2 | 1 | | | | 1 |
| E-05 4 | Arch | Assoc. | 1 | | 1 | | | | | | | | | | | 1 | | | 5 |
| E-08/1 | Arch | Assoc. | 1 | 1 | 1 | | 1 | | | | | | 2 | 3 | 1 | | | | 8 |
| E-11 4 | Arch | Assoc. | | | | | | | | | | | | | | | | | 11 |
| Architects Ttl | | | 3 | 2 | 4 | 0 | 2 | 2 | 2 | 0 | 1 | 0 | 3 | 3 | 3 | 1 | 1 | 0 | 5 |
| Percentage of 5 | | | 60 | 40 | 80 | 0 | 40 | 40 | 40 | 0 | 20 | 0 | | | | 20 | 20 | 0 | 100 |
| | | | Weight | | | | | | | | | | 6 | 8 | 4 | | | | |
| E-03 3 | Cllr | Ward | 1 | | 1 | | 1 | | 1 | | | | 1 | 3 | 2 | | | | 3 |
| E-05 2 | Cllr | Ward | 1 | | 1 | 1 | | 1 | 1 | | | | 1 | 2 | 3 | | | | 5 |
| E-07 1 | Cllr | Ward | 1 | 1 | | | 1 | 1 | 1 | | | | 3 | 2 | 1 | | | | 7 |
| E-09 2 | Cllr | Ward | 1 | | | 1 | | | | | | | 1 | 3 | 1 | | 1 | | 9 |
| E-10 3 | Cllr | Ward | 1 | 1 | | 1 | 1 | | 1 | | | | 1 | 1 | 1 | | 1 | | 10 |
| Councillor Ttl | | | 5 | 2 | 2 | 3 | 3 | 2 | 4 | 0 | 0 | 0 | 5 | 5 | 5 | 0 | 1 | 2 | 5 |
| Percentage of 5 | | | 100 | 40 | 40 | 60 | 60 | 40 | 80 | 0 | 0 | 0 | | | | 0 | 20 | 40 | 100 |
| | | | Weight | | | | | | | | | | 7 | 11 | 8 | | | | |
| F-01 3 | Dev | Director | | 1 | | | | 1 | | | | | | | | | | | 1 |
| E-03 4 | Dev | Director | 1 | | | | | | | | | | 3 | 1 | 2 | | 1 | | 3 |
| E-05 5 | Dev | Director | 1 | 1 | 1 | | 1 | 1 | | | | | 2 | 2 | 1 | | | | 5 |
| E-07 5 | Dev | Director | 1 | 1 | 1 | | | 1 | | | 1 | | 3 | 2 | 1 | | 1 | 1 | 7 |
| E-10/2 | Dev | Director | 1 | 1 | 1 | | | 1 | | 1 | | 1 | 1 | 3 | 1 | | 1 | 1 | 10 |
| Developers Ttl | | | 4 | 4 | 3 | 0 | 1 | 4 | 0 | 1 | 1 | 1 | 4 | 4 | 4 | 0 | 3 | 2 | 5 |
| Percentage of 5 | | | 80 | 80 | 60 | 0 | 20 | 80 | 0 | 20 | 20 | 20 | | | | 0 | 60 | 40 | 100 |
| | | | Weight | | | | | | | | | | 9 | 8 | 5 | | | | |
| F-02/2 | DevA | Plan agt | 1 | 1 | 1 | | | | | | | | | | | | | | 2 |
| E-06/2 | DevA | Plg agent | 1 | | | | | | | | | | 3 | 1 | 1 | | | | 6 |
| E-08/3 | DevA | Plg agent | | | | | 1 | | 1 | | | 1 | 1 | 3 | 2 | | | | 8 |
| E-10/1 | DevA | Plg agent | 1 | 1 | 1 | 1 | | 1 | | 1 | | | 2 | 2 | 1 | 1 | | 1 | 10 |
| Dev. Agent Ttl | | | 3 | 2 | 2 | 1 | 1 | 1 | 1 | 1 | 0 | 1 | 3 | 3 | 3 | 1 | 0 | 1 | 4 |
| Percentage of 4 | | | 75 | 50 | 50 | 25 | 25 | 25 | 25 | 25 | 0 | 25 | | | | 25 | 0 | 25 | 100 |
| | | | Weight | | | | | | | | | | 6 | 6 | 4 | | | | |
| E-02 3 | User | Director | 1 | 1 | 1 | | | 1 | 1 | | | | | | | | | | 2 |
| E-05 6 | User | Director | 1 | 1 | 1 | | 1 | | | 1 | | | 2 | 3 | 1 | | 1 | 1 | 5 |
| User Ttl | | | 2 | 2 | 2 | 0 | 1 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 1 | 0 | 2 |
| | | | Weight | | | | | | | | | | 2 | 3 | 1 | | | | |
| E-03 5 | Inst | Officer | | | 1 | | | | | | | | | | | | | | 3 |
| E-04 5 | Inst | Officer | 1 | 1 | 1 | | | | | | | | | | | | | | 4 |
| Institution Ttl | | | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 |

England, continued

| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | Cmc'l collusion | No. of Interviews |
|------------------|------------------|-------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------|---------|-------|----------------|------------|---------------|-----------------|-------------------|
| E-04 3 | LA | Area plnr | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | | | | | | | | | 4 |
| E-01/1 | LA | Case off. | 1 | 1 | | | | 1 | | | | | | | | | | | | 1 |
| E-02/1 | LA | Case off. | 1 | 1 | | | 1 | | | 1 | | | | | | | | | | 2 |
| E-03/1 | LA | Case off. | 1 | 1 | 1 | | 1 | | 1 | | | | 2 | 3 | 1 | | | | | 3 |
| E-05/1 | LA | Case off. | 1 | | | 1 | | | | 1 | | | 1 | 3 | 1 | | | | | 5 |
| E-06/1 | LA | Case off. | 1 | 1 | 1 | | 1 | 1 | | | | | 3 | 2 | 1 | 1 | | | | 6 |
| E-07 2 | LA | Case off. | 1 | 1 | 1 | | | | 1 | | | | 2 | 1 | 2 | | | | | 7 |
| E-08 2 | LA | Case off. | 1 | | 1 | | | | | | | | | | | | | | | 8 |
| E-08 4 | LA | Case off. | | | | | | | 1 | | | | | | | | | | | 8 |
| E-09 3 | LA | Case off. | 1 | 1 | 1 | | | | | 1 | | | 1 | 1 | 1 | | 1 | | | 9 |
| E-10 4 | LA | Case off. | 1 | 1 | 1 | | | | 1 | 1 | | 1 | 2 | 1 | 2 | 1 | | | | 10 |
| E-11 5 | LA | Case off. | 1 | | | | | | | 1 | | | | | | | | | | 11 |
| E-03/2 | LA | CPO asst | 1 | 1 | 1 | | 1 | | | | | | | | | | 1 | 1 | | 3 |
| E-04/1 | LA | Envir. off. | | | 1 | | | | 1 | | | | 2 | 3 | 1 | 1 | | | | 4 |
| Local Aut'y Ttl | | | 12 | 9 | 9 | 1 | 5 | 3 | 6 | 6 | 0 | 1 | 7 | 7 | 7 | 3 | 3 | 1 | 0 | 14 |
| Percentage of 14 | | | 86 | 64 | 64 | 7.1 | 36 | 21 | 43 | 43 | 0 | 7.1 | | | | 21 | 21 | 7.1 | 0 | 100 |
| Weight | | | | | | | | | | | | | 13 | 14 | 9 | | | | | |
| E-03 6 | Own | Director | 1 | | | | | 1 | | | 1 | | 3 | 1 | 2 | | | | | 3 |
| E-04 4 | Own | Director | | | | | | | 1 | | 1 | | | | | | | | | 4 |
| E-05/3 | Own | Director | | | | 1 | | 1 | | | | | | | | | | | | 5 |
| E-07 3 | Own | Director | 1 | 1 | 1 | | | 1 | 1 | | | | 3 | 2 | 1 | | | | | 7 |
| F-07 4 | Own | Director | 1 | 1 | 1 | | | 1 | 1 | | | | 1 | 1 | 1 | | | | | 7 |
| E-09/1 | Own | Director | 1 | 1 | 1 | | | | | 1 | | | 1 | 3 | 1 | | 1 | | | 9 |
| E-10 5 | Own | Director | 1 | 1 | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | | 1 | | 10 |
| E-11/2 | Own | Director | | | | | | | | | | | | | | | | | | 11 |
| Site Owner Ttl | | | 5 | 4 | 3 | 1 | 0 | 5 | 3 | 1 | 2 | 1 | 5 | 5 | 5 | 1 | 1 | 1 | 0 | 8 |
| Percentage of 8 | | | 63 | 50 | 38 | 13 | 0 | 63 | 38 | 13 | 25 | 13 | | | | 13 | 13 | 13 | 0 | 100 |
| Weight | | | | | | | | | | | | | 9 | 8 | 6 | | | | | |
| E-11 1 | ownA | Lawyer | 1 | | | | | 1 | | | | | | | | | | | | 11 |
| F-09 5 | ownA | Plg agent | 1 | | 1 | 1 | 1 | 1 | 1 | | | | 1 | 2 | | 1 | 1 | | | 9 |
| E-11 3 | ownA | Plg agent | 1 | 1 | | | | 1 | | | | | | | | | 1 | | | 11 |
| Owner Agnt Ttl | | | 3 | 1 | 1 | 1 | 1 | 3 | 1 | 0 | 0 | 0 | 1 | 1 | 0 | 1 | 2 | 0 | 0 | 3 |
| Weight | | | | | | | | | | | | | 1 | 2 | 0 | | | | | |
| F-09 4 | Public Res. Assn | | | | 1 | | 1 | 1 | 1 | | | | 1 | 3 | 1 | 1 | | 1 | | 9 |
| 3rd Party Ttl | | | 0 | 0 | 1 | 0 | 1 | 1 | 1 | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 0 | 1 | 0 | 1 |
| Weight | | | | | | | | | | | | | 1 | 3 | 1 | | | | | |
| F-01 4 | UDC | Director | | 1 | 1 | | 1 | 1 | | | 1 | 1 | 1 | 3 | 2 | 1 | 1 | | | 1 |
| E-01/2 | UDC | Planner | 1 | | 1 | | 1 | 1 | | | | | | | | | | | | 1 |
| UDC Ttl | | | 1 | 1 | 2 | 0 | 2 | 2 | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 0 | 0 | 2 |
| Weight | | | | | | | | | | | | | 1 | 3 | 2 | | | | | |

| Mainland EU by ACTORS & AGENCIES | | | | | | | | | | | | | | | | | | | | |
|----------------------------------|--------|----------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|----------------|------------|-------------------|---------------|-----------------|
| QV&A/EU.XLS | | | Actors views | | | | | | | | | | Anecdotal | | | | | | | |
| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Factor balance | | | | | No. of interviews | | |
| | | | | | | | | | | | | | Politics | Markets | Rules | Aim over-rides | Corruption | | Chiefs decide | Cmc'l collusion |
| F-03 2 | Arch 1 | Project | | | | | | | | | | | 3 | 1 | 2 | | | | | 1 |
| F-03/3 | Arch 2 | Project | | | | | | | | | | | 3 | 1 | 1 | | | | | 1 |
| D-01 5 | Arch. | Associate | 1 | | | | | 1 | 1 | | | 1 | 2 | 1 | 3 | | 1 | 1 | | 1 |
| D-02 3 | Arch. | Associate | 1 | | 1 | 1 | | | | | | | 3 | 1 | 2 | 1 | | | | 1 |
| N-05 2 | Arch. | Associate | 1 | | | | | | | | | | 2 | 1 | 3 | | | 1 | | 1 |
| I-02 3 | Arch. | Ex Assesore | 1 | 1 | 1 | | | 1 | | | | | 1 | 1 | 1 | | 1 | | | 1 |
| F-04 2 | Arch. | for LA | | | | | 1 | | 1 | | | | 2 | 1 | 2 | | | | | 1 |
| F-05 3 | Arch. | Prncipal | | | 1 | | | 1 | | | | | | | | | 1 | | | 1 |
| H-02/7 | Arch. | Prncipal | | | 1 | | 1 | | | | | | | | | | | | | 1 |
| I-gen G1 | Arch. | Prncipal | | | 1 | | 1 | 1 | 1 | | 1 | | | | | | 1 | 1 | | 1 |
| F-02/1 | Arch. | Pmcpl Srvyr | 1 | 1 | | | | | 1 | | | | 3 | 2 | 1 | 1 | 1 | | | 1 |
| F-02/4 | Arch | Project | 1 | | 1 | | | 1 | | | | | 3 | 2 | 1 | | 1 | | | 1 |
| I-02/4 | Arch. | Project | 1 | 1 | 1 | | | | 1 | | | | 1 | 1 | | | 1 | | | 1 |
| Architects Ttl | | | 7 | 3 | 7 | 1 | 3 | 5 | 5 | 0 | 1 | 1 | 23 | 12 | 16 | 4 | 6 | 2 | 0 | 13 |
| Percentage of 13 | | | 54 | 23 | 54 | 8 | 23 | 38 | 38 | 0 | 8 | 8 | | | | 31 | 46 | 15 | 0 | 100 |
| I-gen/LFM | Cncllr | Ex-Assessore | | | 1 | | | | | | 1 | | | | | | 1 | 1 | 1 | 1 |
| D-gen 49 | Cncllr | Green poltn | | | | | 1 | 1 | | | | 1 | | | | | 1 | 1 | | 1 |
| F-02/5 | Cncllr | Mayor | | | 1 | | 1 | 1 | | 1 | 1 | | | | | | 1 | 1 | 1 | 1 |
| I-gen/FS | Cncllr | Mayor | 1 | | 1 | | 1 | 1 | 1 | | | | | | | | | | | 1 |
| I-gen/VC 8 | Cncllr | Mayor | | | 1 | | 1 | 1 | 1 | | | 1 | | | | | 1 | 1 | 1 | 1 |
| F-03 1 | Cncllr | Mayor Dpty | | | | | 1 | | 1 | | | | 2 | 1 | 3 | 1 | | 1 | | 1 |
| F-05 2 | Cncllr | Mayor Dpty | | | 1 | | 1 | | | | | | | | | | | | | 1 |
| I-02 2 | Cncllr | Member | | 1 | 1 | | | 1 | | | | | | | 3 | | 1 | | | 1 |
| F-05 5 | Cncllr | Mvr Ex Dpty | | 1 | 1 | | 1 | 1 | | | 1 | | | | | | 1 | | 1 | 1 |
| I-01 3 | Cncllr | Parish mbr | | | 1 | | 1 | | | | | | | | | | 1 | | | 1 |
| I-04 2 | Cncllr | Reg VP | 1 | 1 | 1 | | | | | | | 1 | 2 | 3 | | | 1 | | | 1 |
| I-01 2 | Cncllr | Region Gvt | | | | | | | 1 | | | | | | 3 | | | | | 1 |
| N-05 4 | Cncllr | Senior | 1 | | | | 1 | | | | | | 1 | 1 | 1 | | | 1 | | 1 |
| D-01 3 | Cncllr | Senior polit'n | 1 | | 1 | | 1 | 1 | | | | 1 | 2 | 1 | 3 | | 1 | 1 | | 1 |
| I-01 1 | Cncllr | Town Gvt | | | 1 | | 1 | 1 | 1 | | 1 | | | | | 1 | | | | 1 |
| N-01 4 | Cncllr | Ward | | 1 | | 1 | | | 1 | | | | 1 | 2 | 1 | | | 1 | | 1 |
| N-04 3 | Cncllr | Ward | | | | | | | | | | 1 | | | | | | | | 1 |
| Councillors Ttl | | | 4 | 4 | 11 | 1 | 11 | 8 | 6 | 1 | 4 | 5 | 8 | 14 | 8 | 5 | 8 | 8 | 4 | 17 |
| Percentage of 17 | | | 24 | 24 | 65 | 6 | 65 | 47 | 35 | 6 | 24 | 29 | | | | 29 | 47 | 47 | 24 | 100 |

Mainland EU. continued

| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | Cnc'l collusion | No. of interviews | |
|------------------|-------|----------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------|---------|-------|----------------|------------|---------------|-----------------|-------------------|-----|
| F-03 4 | Dev. | Director | | | | | | | | | | | 1 | 3 | 1 | | | | | 1 | |
| F-04 3 | Dev. | Director | | | | | | | | | | 1 | 2 | 3 | 1 | | | 1 | | 1 | |
| N-01 3 | Dev. | Director | 1 | 1 | | 1 | 1 | | 1 | | | | 1 | 1 | 1 | | | | | 1 | |
| N-02/5 | Dev. | Director | 1 | 1 | 1 | | 1 | | | | 1 | | 2 | 1 | 3 | 1 | 1 | 1 | | 1 | |
| N-05 3 | Dev. | Director | 1 | 1 | | 1 | | | | | | | 1 | 1 | 1 | | | | | 1 | |
| N-gen | Dev. | Director | | 1 | 1 | | 1 | | 1 | | | 1 | | | | | | 1 | | 1 | |
| F-02 6 | Dev. | Director HA | 1 | 1 | | | | | | | | | | | | | 1 | 1 | | 1 | |
| F-05 6 | Dev. | Director HA | | | | | | | | | | | | | | | | | | 1 | |
| I-05 3 | Dev. | Director Man | 1 | 1 | 1 | | 1 | | | | | 1 | 2 | 2 | 1 | | | | | 1 | |
| F-01 2 | Dev. | Director SEM | 1 | | | | | | 1 | | | | | | | | | | | 1 | |
| I-03 1 | Dev. | Ing. | 1 | | 1 | | 1 | | 1 | | | | 2 | 3 | 1 | | | | 1 | 1 | |
| I-gen C | Dev. | Principal | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | | | | | 1 | 1 | | 1 | |
| I-05 1 | Dev. | Proj Mngr | 1 | | | | 1 | | | | | 1 | 1 | 3 | 2 | | | | | 1 | |
| F-01 3 | Dev. | SEB lawyer | | | | | | 1 | | | | 1 | | | | | | 1 | | 1 | |
| D-01 4 | Dev.1 | Director | 1 | 1 | | | | 1 | 1 | | | 1 | 2 | 1 | 3 | | | 1 | | 1 | |
| D-01 6 | Dev2 | Director | | | | | | | | | | | 2 | 1 | 3 | | | | | 1 | |
| Developers Ttl | | | 10 | 8 | 5 | 2 | 7 | 3 | 6 | 0 | 2 | 7 | 16 | 19 | 17 | | 1 | 3 | 7 | 1 | 16 |
| Percentage of 16 | | | 63 | 50 | 31 | 13 | 44 | 19 | 38 | 0 | 13 | 44 | | | | | 6 | 19 | 44 | 6 | 100 |
| | | | | | | | | | | | | | | | | | | | | | |
| F-03 5 | Gov't | Cnslty | | | | | | | | | | | 1 | 1 | 3 | | | | | 1 | |
| N-04/2 | Gov't | Env. officer | | | | | 1 | | 1 | | | 1 | | | | | | | | 1 | |
| N-gen | Gov't | Inspector | | | | | 1 | 1 | 1 | | | 1 | | | | | 1 | | | 1 | |
| N-02 4 | Gov't | Officer | | | 1 | | | | 1 | | | | 2 | 1 | 2 | | 1 | | | 1 | |
| F-gen JCC | Gov't | Rgnl Rsrch | | | | | 1 | | 1 | | | | | | | | 1 | | | 1 | |
| F-02/3 | Gov't | Urban agency | | | | | | | | | | 1 | | | | | | | | 1 | |
| D-gen 41 | Gv't | Agency officer | | | | | | 1 | | | | | | | | | 1 | | | 1 | |
| Go't Agency Ttl | | | 0 | 0 | 1 | 0 | 3 | 2 | 4 | 0 | 0 | 3 | 3 | 2 | 5 | | 3 | 1 | 1 | 0 | 7 |
| Percentage of 7 | | | 0 | 0 | 14 | 0 | 43 | 29 | 57 | 0 | 0 | 43 | | | | | 43 | 14 | 14 | 0 | 100 |
| | | | | | | | | | | | | | | | | | | | | | |
| N-gen | Instn | Architect | | | | | 1 | | | | | 1 | | | | | | | | 1 | |
| F-01 4 | Instn | Cnslmt PO | | | | | 1 | 1 | 1 | | | 1 | | | | | 1 | | 1 | 1 | |
| N-gen | Instn | Director | | 1 | 1 | | 1 | | | | | 1 | | | | | 1 | | | 1 | |
| I-gen D | Instn | Economist | | | | | | | | | 1 | | | | | | 1 | 1 | | 1 | |
| I-gen AB | Instn | H of Research | 1 | | | | 1 | 1 | 1 | | | | | | | | 1 | | | 1 | |
| F-gen MN | Instn | Lecturer | | | 1 | | 1 | | 1 | | 1 | 1 | | | | | 1 | | 1 | 1 | |
| N-gen | Instn | Lecturer | | | | | 1 | | 1 | | | 1 | | | | | | | | 1 | |
| D-gen 47 | Instn | Professor | | | 1 | | | | | | | | | | | | | | | 1 | |
| D-gen 67 | Instn | Professor | | | | | 1 | 1 | 1 | | 1 | 1 | | | | | 1 | | | 1 | |
| I-02/5 | Instn | Professor | 1 | 1 | 1 | | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | | | 1 | |
| I-gen/DB | Instn | Professor | 1 | 1 | | | | 1 | | | 1 | | | | | | 1 | 1 | | 1 | |
| D-gen/78 | Instn | Researcher | | | 1 | | | 1 | | | | 1 | | | | | 1 | 1 | | 1 | |
| Institutions Ttl | | | 3 | 3 | 5 | 0 | 7 | 5 | 6 | 0 | 4 | 8 | 1 | 1 | 1 | | 6 | 5 | 3 | 0 | 12 |
| Percentage of 12 | | | 25 | 25 | 42 | 0 | 58 | 42 | 50 | 0 | 33 | 67 | | | | | 50 | 42 | 25 | 0 | 100 |

Mainland EU. continued

| | | | | | | | | | | | | | | | | | | | | |
|------------------|----|---------------|----|----|----|----|----|----|----|---|----|----|----|----|----|----|----|----|---|-----|
| N-01/2 | LA | B Officer | 1 | 1 | | | | | | | | 1 | 2 | 1 | | | | 1 | | |
| N-03/1 | LA | B Officer | 1 | 1 | | 1 | 1 | | | 1 | | | | | | 1 | | 1 | | |
| N-04 1 | LA | B Officer | | | | 1 | | 1 | | 1 | | | | | | | | 1 | | |
| N-05/1 | LA | B Officer | 1 | | 1 | | | | | | | 1 | 1 | 1 | | 1 | | 1 | | |
| D-gen 42 | LA | CB Officer | | | 1 | | 1 | 1 | | | 1 | | | | 1 | | | 1 | | |
| D-gen 5 | LA | CB Officer | | 1 | 1 | | 1 | 1 | | | 1 | 1 | | | | 1 | | 1 | | |
| N-02 3 | LA | CB Officer | | | 1 | | 1 | | 1 | | 1 | | 3 | 1 | 1 | 1 | 1 | 1 | | |
| N-gen | LA | CB Officer | | 1 | 1 | | 1 | | 1 | | | 1 | | | | 1 | | 1 | | |
| I-03 2 | LA | CB Officer | 1 | 1 | | | | | | | | | | | | | | 1 | | |
| I-gen/VT | LA | CB Officer | 1 | | | 1 | | 1 | | 1 | 1 | | | | | | | 1 | | |
| I-01 4 | LA | Cmcl official | | | | | | 1 | 1 | | | | | | | | | 1 | | |
| D-gen 34 | LA | CPO | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | | | | 1 | 1 | 1 | | |
| I-02 1 | LA | CPO | 1 | 1 | 1 | | | | 1 | | | | | 3 | | 1 | | 1 | | |
| F-gen DG | LA | CPO urbaniste | | | 1 | | 1 | 1 | 1 | | | | | | | 1 | 1 | 1 | | |
| D-gen 25 | LA | Dept head | | 1 | 1 | | 1 | | 1 | | | | | | | | 1 | 1 | | |
| I-04 3 | LA | Dpty BO | | | | | 1 | | | | | | 2 | 3 | | | | 1 | | |
| I-04 5 | LA | Dpty PO | | | | | | | | 1 | | | 3 | | | | | 1 | | |
| I-gen GV | LA | Engineer | | | | | | 1 | 1 | | | | | | | 1 | | 1 | | |
| I-03/3 | LA | ExAssessore | 1 | 1 | 1 | | 1 | | | | | | | | | | 1 | 1 | | |
| I-05 2 | LA | ExtExam/DW | 1 | 1 | | | 1 | | | | | | 1 | 3 | 2 | | | 1 | | |
| D-01/2 | LA | Plng Officer | 1 | | 1 | | 1 | 1 | 1 | | | | 1 | 2 | 3 | | 1 | 1 | | |
| D-02/2 | LA | Plng officer | 1 | 1 | 1 | | | | 1 | | 1 | 1 | 2 | 1 | 2 | | | 1 | | |
| N-02 6 | LA | Plng Officer | | | | | | | 1 | | 1 | | 2 | 1 | 2 | 1 | 1 | 1 | | |
| I-01 5 | LA | Plng officer | | | | | | | | | | | | | | | | 1 | | |
| N-03 2 | LA | Plng. officer | | | | | 1 | | | | | 1 | | | | | 1 | 1 | | |
| N-05 5 | LA | Plng. officer | 1 | | | | 1 | | | | | | 2 | 1 | 2 | | 1 | 1 | | |
| Local Aut'y Ttl | | | 14 | 12 | 13 | 5 | 20 | 10 | 17 | 2 | 7 | 12 | 25 | 28 | 27 | 8 | 10 | 10 | 1 | 34 |
| Percentage of 34 | | | 41 | 35 | 38 | 15 | 59 | 29 | 50 | 6 | 21 | 35 | | | | 24 | 29 | 29 | 3 | 100 |

| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Politics | Markets | Rules | Aim over-rides | Corruption | Chiefs decide | C'mc'l collusion | No. of interviews |
|-----------|-------|--------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------|---------|-------|----------------|------------|---------------|------------------|-------------------|
| F-05 4 | Owner | Director SEM | | | | | | | | | | 1 | | | | | 1 | | | 1 |
| N-02/2 | Owner | LA assistant | 1 | | 1 | 1 | | | | | 1 | | 3 | 1 | 1 | 1 | | | | 1 |
| N-01 1 | Owner | LA director | 1 | 1 | 1 | | | | 1 | | | | 2 | 3 | 1 | | | 1 | | 1 |
| N-02 1 | Owner | LA director | 1 | 1 | 1 | 1 | | | 1 | | 1 | | 2 | 1 | 3 | | | 1 | | 1 |
| D-gen 82 | Owner | Lawyer | | | | | 1 | 1 | 1 | | 1 | 1 | | | | 1 | 1 | 1 | 1 | 1 |
| I-gen CdB | Owner | Lawyer | | | 1 | 1 | 1 | 1 | | | 1 | 1 | | | | | 1 | | 1 | 1 |
| F-02/2 | Owner | Principal | 1 | | 1 | | 1 | | | | | | | | | | 1 | 1 | | 1 |
| I-05 4 | Owner | Principals | | 1 | | | 1 | | | | 1 | | 1 | 1 | | | 1 | | | 1 |

Mainland EU continued

| <i>Percentage of 4</i> | | | 25 | 0 | 25 | 25 | 75 | 50 | 50 | 0 | 25 | 25 | | | | | 25 | 0 | 25 | 0 | 100 |
|--------------------------|-------|-------------|----|----|----|----|----|----|----|----|----|-----|---|---|---|--|----|----|----|----|-----|
| EE-03/2 | LA | B. Officer | | | | | 1 | | | | | 1 | | | | | | | | | 1 |
| EE-04/2 | LA | B. Officer | 1 | 1 | 1 | | 1 | 1 | | | | | | | | | | 1 | 1 | | 1 |
| EE-01/1 | LA | CA/CPO-1 | 1 | | | 1 | | | | | | 1 | 3 | 2 | 1 | | | | | | 1 |
| EE-01/2 | LA | CA/CPO-2 | | 1 | 1 | | | 1 | 1 | 1 | 1 | | | | | | | 1 | | | 1 |
| EE-02/2 | LA | CA/PO | 1 | 1 | 1 | | 1 | | | 1 | 1 | 1 | | | | | | 1 | 1 | 1 | 1 |
| Local Aut'y count | | | 3 | 3 | 3 | 1 | 3 | 2 | 1 | 2 | 2 | 3 | | | | | 0 | 3 | 2 | 1 | 5 |
| <i>Percentage of 5</i> | | | 60 | 60 | 60 | 20 | 60 | 40 | 20 | 40 | 40 | 60 | | | | | 0 | 60 | 40 | 20 | 100 |
| | | | | | | | | | | | | | | | | | | | | | |
| EE-03/3 | Owner | Director | | | | | 1 | 1 | 1 | | | 1 | | | | | | | | | 1 |
| EE-01/3 | Owner | LA Director | | | | 1 | | | | | | 1 | 1 | | | | | | 1 | | 1 |
| Site owner count | | | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 0 | 1 | 2 | | | | | 0 | 0 | 1 | 0 | 2 |
| <i>Percentage of 2</i> | | | 0 | 0 | 0 | 50 | 50 | 50 | 50 | 0 | 50 | 100 | | | | | 0 | 0 | 50 | 0 | 100 |

Central Europe by ACTORS & AGENCIES

QV&A/EU.XLS

| QV&A/EU.XLS | | | Actors views | | | | | | | | | | Anecdotal | | | | | | | | | |
|-------------|---------------------|---------------|----------------|----------------|--------------|-------------------|-------------|-----------------|------------------|---------------|--------------|------------------|----------------|---------|-------|---|----------------|------------|---------------|-----------------|-------------------|-----|
| Ref.No | Agcy | Actor | Soft influence | Hard influence | Manipulation | Robust / enforced | Over-riding | Hidden agenda's | Policy conflicts | Planning gain | Land control | Informal negot'n | Factor balance | | | | Aim over-rides | Corruption | Chiefs decide | Cmc'l collusion | No. of Interviews | |
| | | | | | | | | | | | | | Politics | Markets | Rules | | | | | | | |
| EE-02/1 | Arch | Assoc. | | | 1 | | 1 | 1 | 1 | | | | | | | | | | | 1 | 1 | |
| EE-03/1 | Arch | Principal | | | 1 | | 1 | 1 | | | | 1 | | | | | 1 | | | | | |
| EE-04/1 | Arch | Principal | 1 | 1 | | | 1 | | | | | | | | | | | | | | 1 | |
| EU-01/6 | Arch. | Assoc. | 1 | 1 | 1 | | 1 | 1 | | | | | | 2 | 3 | 1 | | 1 | 1 | | 1 | |
| EE-02/7 | Arch. | Consultant | | | | | | | | | | | | | | | | | 1 | | 1 | |
| | Architect count | | 2 | 2 | 3 | 0 | 4 | 3 | 1 | 0 | 0 | 1 | | | | | | 0 | 2 | 2 | 1 | 5 |
| | Percentage of 5 | | 40 | 40 | 60 | 0 | 80 | 60 | 20 | 0 | 0 | 20 | | | | | | 0 | 40 | 40 | 20 | 100 |
| | | | | | | | | | | | | | | | | | | | | | | |
| EE-01/4 | Cncllr | Adj Mayor | | | | | | | | 1 | | | | 1 | 3 | 2 | | | | | 1 | |
| EE-04/3 | Cncllr | Mayor | | | | | | | 1 | | | | | | | | 1 | | 1 | | 1 | |
| EE-gen/V | Cncllr | Mayor | 1 | 1 | 1 | | 1 | 1 | | | 1 | 1 | | 3 | 2 | 1 | 1 | | 1 | 1 | 1 | |
| | Councillor count | | 1 | 1 | 1 | 0 | 1 | 1 | 1 | 1 | 1 | 1 | | | | | 2 | 0 | 2 | 1 | 3 | |
| | Percentage of 3 | | 33 | 33 | 33 | 0 | 33 | 33 | 33 | 33 | 33 | 33 | | | | | 67 | 0 | 67 | 33 | 100 | |
| | | | | | | | | | | | | | | | | | | | | | | |
| EE-02/6 | Dev. | Contractor | | | | | | | | | | | | | | | 1 | | | | 1 | |
| EE-01/5 | Dev. | Director | | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | | 1 | |
| EE-02/4 | Dev. | Director | | | | | | 1 | | | | 1 | | | | | | | | | 1 | |
| EE-02/5 | Dev. | Director | | | | | | | | | | | | | | | | | | | 1 | |
| FE-02/3 | Dev. | NTO director | | | | | | | | | | | | | | | | 1 | 1 | | 1 | |
| | Developer Count | | 0 | 1 | 1 | 0 | 1 | 2 | 1 | 0 | 1 | 2 | | | | | 1 | 2 | 2 | 0 | 5 | |
| | Percentage of 5 | | 0 | 20 | 20 | 0 | 20 | 40 | 20 | 0 | 20 | 40 | | | | | 20 | 40 | 40 | 0 | 100 | |
| | | | | | | | | | | | | | | | | | | | | | | |
| EE-gen/4 | Gov't | Planning Sec. | | | | | 1 | 1 | 1 | | | | | 3 | 1 | 2 | 1 | | 1 | | 1 | |
| EE-gen/K13 | Instn | Law research | 1 | | 1 | | 1 | 1 | 1 | | 1 | | | | | | | | | | 1 | |
| EE-gen/M | Instn | Professor | | | | 1 | | | | | | | | 1 | 1 | 2 | | | | | 1 | |
| EE-gen/S | Instn | Professor | | | | | 1 | | | | | 1 | | 3 | 1 | 1 | | | | | 1 | |
| | Gov't & Instn count | | 1 | 0 | 1 | 1 | 3 | 2 | 2 | 0 | 1 | 1 | | | | | 1 | 0 | 1 | 0 | 4 | |
| | Percentage of 4 | | 25 | 0 | 25 | 25 | 75 | 50 | 50 | 0 | 25 | 25 | | | | | 25 | 0 | 25 | 0 | 100 | |
| | | | | | | | | | | | | | | | | | | | | | | |
| EE-03/2 | LA | B Officer | | | | | 1 | | | | | 1 | | | | | | | | | 1 | |
| EE-04/2 | LA | B. Officer | 1 | 1 | 1 | | 1 | 1 | | | | | | | | | | 1 | 1 | | 1 | |
| EE-01/1 | LA | CA/CPO-1 | 1 | | | 1 | | | | | | 1 | | 3 | 2 | 1 | | | | | 1 | |
| EE-01/2 | LA | CA/CPO-2 | | 1 | 1 | | | 1 | 1 | 1 | 1 | | | | | | | 1 | | | 1 | |
| EE-02/2 | LA | CA/PO | 1 | 1 | 1 | | 1 | | | 1 | 1 | 1 | | | | | | 1 | 1 | 1 | 1 | |
| | Local Aut'y count | | 3 | 3 | 3 | 1 | 3 | 2 | 1 | 2 | 2 | 3 | | | | | | 0 | 3 | 2 | 1 | 5 |
| | Percentage of 5 | | 60 | 60 | 60 | 20 | 60 | 40 | 20 | 40 | 40 | 60 | | | | | | 0 | 60 | 40 | 20 | 100 |
| | | | | | | | | | | | | | | | | | | | | | | |
| EE-03/3 | Owner | Director | | | | | 1 | 1 | 1 | | | 1 | | | | | | | | | 1 | |
| EE-01/3 | Owner | LA Director | | | | 1 | | | | | 1 | 1 | | | | | | | 1 | | 1 | |
| | Site owner count | | 0 | 0 | 0 | 1 | 1 | 1 | 1 | 0 | 1 | 2 | | | | | | 0 | 0 | 1 | 0 | 2 |
| | Percentage of 2 | | 0 | 0 | 0 | 50 | 50 | 50 | 50 | 0 | 50 | 100 | | | | | | 0 | 0 | 50 | 0 | 100 |

Interview with Head of division for framework planning and B-plans, 9/01/93

Although no appointment had been made he spent a long time talking to us, mainly in English, which was good. After a cautious start, in which he questioned me about the objectives of the study and how confidential it was, suddenly he seemed to be convinced that he could trust me and Jeannette, and started to open up. I encouraged this by telling him that in the UK it is recognised by property financiers that every major town has its own 'property Mafia'. He thought we would not get access to the info. required, but I told him that we already seemed to be getting this. He then seemed to want to "tell it like it is", possibly to sound off but not with any immediately apparent motive or axe to grind. "But", he warned, *"be very careful, this is dangerous."* He continually stressed this throughout the discussion.

He graduated in Raumplanung at a German University, where he had also undertaken very confidential research and therefore was familiar with the idea of changing names, creating anonymity, etc., and keeping sources safe. He had then gained his Zweite Staatsprüfung (second state exam - a 2 year experiential qualification, possibly similar to a civil service exam), in a city administration. This qualified him to hold administrative posts. He had worked in a developing country teaching German planning but "could not tell them the real truth, because of their own corruption" and "had to make out to them that the German system of regulations, codes and strict plans, avoided this." He had also worked in the Staat Co. (a Quango) that buys derelict land and tries to redevelop this. There he saw the relatively clean arrangements at high level turn into a "swamp" of intrigue and corruption at the local levels beneath this. Whatever they (the land Co.) thought about development and funding, this was/is most often realised in a totally different way. Two years driving around from town to town trying to handle all the intrigues, was as much as he could take.

He became concerned about what he could tell us if certain people were closely involved. I quelled his fears on this.

His job is deputy to the departmental manager. He had enjoyed a very good relationship with the former head of Dept , (now appointed as head of planning at an adjacent city) who had also graduated in Raumplanung. They had formed a good team and, via him, he had quickly gained all the right contacts.

However, his real job was and is to *"protect the politicians"*. To find ways of making things possible and enable them to be able to say that responsibility lay with the administration. *"(This city) is part of a wealthy state and could have a building department of 150, if necessary, to mask the truth."* His perception of his role seemed to be that sometimes planners needed to do things in secret, etc., to keep the potential of social benefits for the community, e.g. social housing. (Jeannette's interpretation was that therefore perhaps open and public participation was not always useful, see below).

He told us of the problems he was facing over a very important meeting that afternoon, in which he was having to lean on all other departments to do him a favour, on a mutual back scratching exercise. *"Everything is bargaining"* he explained, *"... even internally"*. He emphasised the need for the right contacts, even internally. (later, in response to Jeannette's question about how he had achieved his position, he explained that this was through knowing the right people in the political system). The meeting concerned a small site, only circa 3,000 square feet, but in the centre of one of the communities. Its development would ruin the location. Nevertheless, the deputy mayor (lady) and her husband (Laand MP) would be there. They were pressing for permission to be given since the owner was a friend of theirs. *"The law and the plan are not important,"* he was told, *"The plan must be got through."* (We subsequently learned that the meeting, which was not public, had been a shambles, with two groups of politicians from different levels (region and local) of the same party shouting at one another. He had survived!)

He confirmed that R&R and plans are used to cloud the real issues and decisions from the public.

For example, at present the National Politics is to say that Germany wants more social housing to accommodate immigrants from East Germany, Poland, etc., and especially people for Russia who could claim an ancient German origin. At the local level this is echoed in word only. The reality is that local politicians are concerned to do what they can for existing citizens. Therefore, when the planning department suggests a site for social housing, this gets leaked to the press so that speculation can push up the price. The social housing

project then has to be abandoned because a low land price is essential for the city to be able to afford to buy it for such projects. Therefore they can't buy the land. (The city has a high rate of employment, circa 15%, and many existing social problems. To accommodate more immigrants without jobs would obviously exacerbate this problem. Presumably this would cause unrest in the existing electorate. It is therefore possible that local politics tries to avoid national policy in order to stay in power locally).

He expressed the view that this was the same all over the world. Whilst agreeing, I said that however, as in Holland, many practitioners seemed to regard this as a peculiarity to their own special cases. That these things hadn't been linked up. He felt that from the discussions that he had had with RTPI members in an English town, the story swapping soon ended up with agreement that things were all the same. Also that the Dutch had the same impression. I suggested that this was the practice, but that the given knowledge in books and academe was the reverse. This he agreed. He suggested possibly Habermas' ideas but felt these were too high, theoretical and abstract. *"What we need a simple guide telling how it really is"*, he said.

Protection of local jobs can be seen in another way. He pointed out that everywhere that one can see a tower crane on a building site (i.e. all building sites) in the city, then a local (or from nearby) contractor was engaged. This is city policy. Keep the jobs at home.

He instanced the importance of close connections by drawing a seating diagram of a football match. Two officials behind, the mayor in the middle and a contractor and developer in front. For example, in the northern city of Dusseldorf the forum for such meetings would be Ice Hockey. These are the mass popular spectator sports where it is good for the politicians, mayor, etc. to be seen. It's open and good for their image. Golf does not have the right image, yet. But planners in this city are now having to learn to play golf because the senior officials in the (industries) which, since they have all closed down, are now just major property owners, are playing. The social contact is too important to miss and golf has become one of the right forums for this. I told him that one of our lines of interview was entertaining and socialising for business and he enthusiastically confirmed that this was looking in the right direction.

(Jeannette later commented that this was replicated at regional and national level as well, stressing the importance of relevant clubs for politicians.)

He stated that the city is very important for the Bund SPD. Two of its people are ministers (Transport and Finance) and until recently there was a third. The local SPD is very wealthy, therefore they can pay officers in departments to keep their influence (this needs double checking, is it a secret payment in addition to wages or are the people political appointees who don't do a real job but act as internal spies or fixers?). *"No one can prove it but it's true!"* Also the Trades Unions are very important. (Jeannette's interpretation was that although the TU's and SPD are left wing, they employ the same organisation and methods as the right. She had also observed this in her own town of Trier). He also said that many of the people employed in major local industries were always to be found in the city, not at work. *"Any time of the day that you want to talk to them, you can. They will even come into my office at ten in the morning, banging the table to insist on what they want and how they want it done."* He instanced the present mayor who, although recently retired, had been employed at (Company). He then went on to look through the L/A directory and identify at least 10 people in this same position. *"One of them once told me, 'Look be very careful how you use this information. I never want to have to go to work again in my life.'* In his view, these people are mainly power driven."

I explained the political corruption in France, for obtaining party finance. He did not think that things were done that way in Germany. The parties are financed from central funds in proportion to the votes that they win. But sometimes one could find money passing where perhaps 50% went to the party or the city and 50% was split between the people who had organised everything. More likely seems to be 'electoral benefits' (my emphasis), e.g. electoral bribes, bolstering of image, record, etc., to remain in office..

He hinted that we should talk to certain people, a lady lawyer, who Jeannette recognised and the Green Party, *"but don't say where this came from"*, he stressed.

All people and departments involved with a project have different files and secret papers. It is therefore very difficult to piece anything together. (It seems that all those in the "game" take advantage of this to manipulate the system.). He was very concerned that his job was constantly on the line and showed us papers that he retained *"in case they should ever be needed for protection"*, going on to say that he kept several files at home for the same purpose

He also suggested that the press could be worth talking to, but pointed out that they were usually persuaded to suppress things - for example material passed on by the Greens or the solicitor, by the major parties who only gave them access to information (and other favours/benefits?) providing they didn't take up these other issues. (Jeannette had a personal example of this kind of oppression. A senior member of a consultancy group that she knows is a leading member of the local Greens. The consultancy were commissioned to advise on landscaping and greening of 2 industrial sites. When they presented their intermediate report to the committee they were attacked and insulted by the SPD members and other main political parties. The meeting was arranged when the green member could not be present. This theme was taken up by the press, who similarly vilified the consultancy, who of course lost their contacts.)

He confirmed that the professional integrity of officials was often compromised by power pressures, commenting *"What do you do when your job is threatened. Even if we don't agree with what is going on, this is the real world we live in. I can't change the whole system!"*. He went on to say that (when training as a planner) *"You spend 5 years in (University) with (Professor), you learn a lot BUT then you must forget it in order to work with what really happens"*. The inference was that you need to know how to use the system for any given objectives. But don't believe in the system or what you've learned.

{Jeannette later paraphrased a section of what he said, like this. *"Maybe the eventual conclusion of this project may turn out to be that the function of the systems everywhere is to hide what really goes on. The other differences, apparently so important to academics, being not really significant. They are all part of using the system to hide things (including indoctrinating people into the system, getting them to believe in it and therefore support it via education, training and practice. Thus they become unwitting pawns in the game or unwritten conspiracy)".*}

I mentioned the name (architect) as having the right kind of connections *"That's looking in the right direction"* he said.

Stating that we recognised that most small applications which were not of sufficient importance or interest, would have to conform to the regulations, and asked what percentage of the major applications involved some form of massaging or manipulation of the system, rules and plans. After thinking a while he said that he would go as far as to say that this applied in at least 90% of such cases.

He suggested that (Professor) should at least have an idea of what was really going on and who was involved since he was on the re-plotting committee. But as a lawyer he probably has to believe in the *"legal"* system. *"maybe he doesn't dare to look!"* he speculated.

He referred to many scandals related to planning and property in which people were forced to resign or 'take their hats'.

Discussing competitions he said *"Competitions are organised to hide corruption. It is always known who will win and/or will get the contract. But, when one is organised by the planning dept. it is perceived to be fair and open. The planning dept. don't get involved in the behind the scenes carve ups. This is left to the actors to fix between themselves."* He cited the current public exhibition, 2 floors down, of the a competition for a housing project (photographs already taken) which is a green field, agricultural site and, therefore, there is vast increase in value. He suggested *"look to see who holds the land"*.

In response to my questions he said that he did not know of many foreign developers trying to operate in Germany (Jeannette cited a major 'Metro Centre' style retail development in Oberhuesen "Neme Mitte" initially promoted by a Canadian firm, refused and now taken over and scaled down by a British firm). Neither was he aware of the use of off shore Company vehicles for concealing activities. In Germany they have their own ways (need to find out more about this).

Planning has to be *"gummi"* (elastic), he said, subsequently adding that *"... there is no planning. So, who do you think does it, (e.g.) in the south"*. This was a direct reference to the influence of a major architect who works the system to get the decisions he wants.

Files are not public. It is difficult for politicians, developers, press, etc. to get access to them. Even other departments don't have access to the land dept. files. You have to have the permission of the head of administration. Files only become public if a case goes to court.

(We had asked for access to some files. He said he would have to clear this with his chief. We were to go back at 1.00, which we did). He explained that, even though my letter (in German) had been read, *"they (his boss and above sideways) didn't know what (we) were really after"*. (possibly because we already had access to the building dept. files) although they were very sceptical about letting us have access, they therefore agreed but, he had been told, *"tell the officials to be very cautious about what they say"*.

(We got the impression that, as luck would have it, if we hadn't already got into the system via the building dept. then we might have been refused.)

When we went back later in the afternoon to arrange for further files he told us that when outside investors, financiers, etc. go to look at the city, they make contact with the political powers first. BUT they overlook the administrative powers. He told us the story of 2 admin. people, one of whom was very influential in local government, who achieved a social housing scheme (the one we saw) that the city had tried for 20 years to do. The difficulties were connected with the high cost of land and local politics. These 2 picked the appropriate time. It is now seen as one of the internationally famous social housing projects, with many visitors coming to see it. (Is this evidence of a long term search to get round the rules?)

I mentioned my increasing perception that individuals drove the processes and he concurred, saying that he had observed this too and that psychology was much involved.

Extracts from further interview with Planning Officer 23/02/93

The purpose of this interview was two-fold. First to seek confirmation or denial of the interim findings and secondly to seek enlargement of certain of these. Discussion, was much less flowing. The large number of questions to be covered and the extent of the explanatory information which needed to be given for each, made it, in places, very much more staccato. For ease of reference the interview schedule is reproduced in full, but leaving out those questions which were not raised (hence gaps in numbering), with answers and extensions as appropriate.

Questions to Planners, Architects, Political scientists, etc..

1. Delays caused by the complexity of the system are constantly appearing as a reason for the system being distorted if not totally bent and corrupted.

a. Has anyone carried out any study of what such delays are costing the German development industry?

A: Not known. (Making notes) *"This would be a very good topic for me to go back to University to do a PhD"*

b. Who bears such costs - landowner, developer, municipality, end user, Govt's., etc. and how?

A: Not the municipality. Either the investors or end users. Not the state via subsidies.

2. There are various ways used to get round the plans. viz.:

* 5 ways to gain "flexibility":-

- No B-plan
- New B-plan specially for project
- B-plan changed to accommodate new development
- Special release from regulations
- Art V. - closed eyes

Do you know of any others?

A: Special release from regulations is used very often.

3. No one seems to think that it is unusual/irregular to "massage" the R & R in order to grant permissions.

a). How can anyone hold this view, given the R & R?

A: There are only a few in German Law which have no chance to be massaged. These are Fire. Structures and to some extent car parking. Everything else can have a release. There are lots of possibilities to do this. *"The extent to which this is done is elastic. Planning is rubber. There is no building control anymore."* There

is a new law being discussed (Bauordnungsgesetz) intending to make system more liberal/flexible and, in so doing, get rid of the Regional level - and possibly of him!

b). Does this suggest that this type of variation is in fact very much the norm, so that it is expected that the system and the R & R will have to be applied in this way?

A: Yes.

c). If so, for how long has this been the case and why?)

A: Since the beginning of building law in 1961 This was enacted to try and prevent bad development. speculation, etc.. Certainly since the middle of the '60's. Before this it couldn't be like it because there was no planning law.

1. We know that the procedure, whereby the building officer is responsible for issuing the permit, are used to conceal how, where, when and who by the actual decision is taken and that this information is not held on any files. How is this done?

A: Through consultation in small circles (groups). A handful of the highest admin. officials (i.e. those that are politically elected) and heads of a few departments PLUS investors and architects. There is a lot of pressure on building officers. *"Good reasons have to be found to tell them why the law must be avoided. And you then hope that no one on the other side has both the information and the knowledge to rebut this. Therefore you must know what information the other side has already."*

"Be sure that the building officers in all Germany have an ethic. When this is touched then they say 'STOP' even when the political pressure is big. Also, on a few laws (fire, structures) they can go to jail."

BUT, as soon as the politicians know that an official has made a major mistake, then that official is in their grip and has to do what he is told, regardless. There is one person in this city - nicknamed 'Stalin' - who could and still can make people jump, and one did jump out of a window about 15-17 years ago.

You also have to ask what is the cost to society of keeping so many people employed in a system for no purpose (Just to provide a screen for the politicians? Yes!)

If you have a development on "white land" (German: grüne wiese = the green) over the built boundary. then there is no B-plan or F-plan.

2. The building department is supposed to ensure that all public laws, not just the building and planning regulations, are observed. BUT we know that inconvenient considerations regulations (e.g. highways, transport, environment, sewerage, etc.) are often "forgotten" or overlooked where important decisions and special time pressures are involved (25)

A: Environmental, yes. Highway, not often.

• - How is this done?

A: Agree *"to talk about it later"*, no conditions, etc.. But it is then forgotten. Also, in cases which go public, then there is a lot of discussion, etc. etc. but then nothing is ever done about it. There is no way of controlling this in German law, e.g. via planning law.

For example the lady working next door is responsible for seeing who pays compensation for loss of landscape, etc.. No one ever has.

The law says that compensation can be by buying land and planting trees, but no one does. There is a recent (early 1992 ?) study "BUND (Association for Environmental Protection & Nature relief)" or something like this, This found that in 3 major cities there was only one case of these matters being dealt with per the law.

- How often is this done?

A: In major cases.

3. Environmental regulations are not considered until late in the process, i.e. after the actual decision has been taken, after the building and other technical regulations are considered, and that it is then too late for them to be given proper consideration. Indeed it appears that there is no mechanism for them to receive proper consideration or enforcement.

Is this correct?

A: Generally Yes. But more specifically, whilst there is a lot included in pretty pictures and glossy presentations for very long term planning, when it comes to actual realisation and development, nothing is done. They are avoided.

Is any action being taken to correct this?

A: At a small, informal group level, e.g. within these few offices. BUT the law is changing in the opposite direction. They have learned from Reagan.

6. Car parking does not receive high consideration (7,13,14) Why?

A: Policy, in your terms, is to reduce spaces. The LAW says the reverse. 1 space to 50m² is required or a commutation (local) of up to Dm 30,000/space in city centre and Dm 13,000 in suburbs. But there are many solutions to this!

7. The system appears to make no provision for impact studies to be called for. Why is this?

A: The (1 year old) E.C. requirement for EIA's, is a Federal Law, but this leaves the L/A's to decide how and what should be done. *"In fact this city enacted local legislation about 5 years ago to deal with this. A department was set up and one person had Dm 400,000 for designing what should be done. It is in a big tomb. This was later reduced to one sheet of paper by someone else. But it is all a front. Nothing is/was ever realised. It is used only to disguise what really goes on. It was found that trying to implement it just caused trouble with the investors. But the department is still there to show everyone that the matter is being properly handled, and to cover up the realities."*

1. Is it true and what can you tell me about the observations that:-

a). - because of mistakes in the past, today politicians have no faith in planning and are prepared to over ride plans ?

A: Yes to both.

b) - the major parties monopolise the L/A staff for there own purposes and that officials are therefore helping major parties/politicians much more than minor ones ?

A: Yes.

c). - it is the land owners who hold and/or manipulate power and the system ?

A. The big land owners. yes.

d). - for major developments politicians are the first line of approach?

A; Yes.

e). - Associations and clubs, especially local sports clubs, are very important and a way of buying political influence?

A: Yes. It's the "Amigo" system, e.g. via tennis or football clubs, etc. *"I know a man who does"*. Major decisions are made on the stands of football clubs. This is also true at the suburban level.

2. What is the strength of local Chambers of Trade, etc. How many of the local retailers/business people are on the council?

A: It is very influential, but locally very few retailers, etc. are on the council. This is an SPD, union town. The CDU is the party of the retailer stores, shopkeepers and small industry. The Cof C is a private organisation. It does try to deal in politics, but locally the controlling party is the SPD. In Köln the SPD and CDU have an arrangement and work hand in hand, each side taking an agreed number of jobs, etc..

The CofC can officially interfere in planning. They have the legal right to be consulted, along with 115 other organisations (116 total) - Bau ... ?. We have a duty to give them participation.

3. Would you agree that:-

a) - Principal actors in many major developments are often well known to one another?

A: Yes.

b) - Many of the people in senior positions have strong local connections (schools, universities, job experience) and that many also belong to "secret" societies?

A: Strong local connections, etc., yes. Secret Societies, no. The Scientologists may be around trying to control and direct things, but I don't feel that they put me in any difficulties or direct me.

For example, at the suburban level the small clubs are always asking for special hours to get access to training facilities. Any politician who can deliver these is sure of re-election and popularity.

c) - Jobs and political positions are often inter-linked?

A: Locally via the Trade Unions. You have to know what the political order of a city. Is it steel, mining, farming, retailing, industry, etc. + CDU, SPD or what?

2. How often do Politicians and Planners take decisions in secret and why?

A: Not very often. As long as it has to do with the processes of Bau ... (?) then it is very difficult to keep things secret. For example there are 115 different organisations that we have to consult/allow to participate. BUT there are cases. But these can't be found out. They are too complex. For example this file here now (in front of him). This will be kept totally secret. No one will ever be able to find out about it.

The reason why they are kept secret is that public participation could cause political trouble, even when there is nothing to hide.

3. Corporate structures in Germany give opportunity for politicians to hold jobs that they don't do, etc.. What are these corporate structures?

A: 10% + of the politicians related to planning (but only from the ruling party) are in such positions. In the main they are working for companies having a major local interest. For example, the mayor works for a company and has not been into his office for three years!

6 Can you comment on the fact that contracts for sale of land by cities are often linked to the grant of planning permissions for the required development (even though it is illegal to guarantee a permit without an approved B-plan) (7)

A: *"We don't do it anymore. Another city was caught out and the B-plan was cancelled by the court. What we do is to undertake to do our best to produce a legal permit but don't guarantee it. We have allowances to do this."*

8. Financial investors are often involved in discussion/negotiation with senior politicians before applications are made. How are these approaches made?

A: *"I once talked to a major commercial firm about a job. I told them that what I would do would be to first get the organigram of the council and identify the major party and politicians. Then I would contact the ruling party and get meeting's, first with the leader, then with the head of planning and then, after a suitable space of time so that the necessary instructions/communications had been given to him, the CEO and or planning officer".*

In fact only in a very few cases do investors go to the CEO first. Architects act for the investors.

9. What effect does the availability of only the one word "Politik" to cover both politics and policies have on systems and/or vice versa?

A: None. According to the way the word is used, it is usually clear what is meant. Any one (in the administration?) with the capacity and position to think, can separate the two. It may be used in a bad, negative way, and this will mean politics. If used in a positive way, e.g. for housing, then this is seen as policy.

1. Is it correct that Architects are the only people permitted to submit plans for developments?

A: Yes.

2. Is it correct that Architects have little or no education or training in town planning?

A: Yes.

3. Would you agree that many Architects seem to be more technicians than designers?

A: Yes

4. Would you agree that the R & R effectively give the architects a relative charter to run up fees, with complete new submissions, etc.

A: Not exactly a charter, because the investors will object to paying fees twice, etc. This means that on major projects we don't get complete new submissions at that often. (But the system allows full permits to be given after structural details approved, so that design details don't have to form part of application.)

5. Minor architects involved with major projects often withdraw and the projects are then taken up by major architects. Do you think that this is because:-

- a. they don't know their way round the system and give up.
(not put)
- b. the regional/national authorities deliberately block them so that this provides opportunities for other architects "in the club" to come in and obtain work
(not put)
- c. Although, it appears that you can get anything approved if you want. the heavily regulatory system seems to favour only those architects who have adapted their design ideas to satisfy the regulations. Would you agree?
(not put)
- d. architects do not have appropriate training in Town Planning or the related regulations and therefore only those who either.-

A: Yes

- i. have the right connections to the authorities (admin/politics).
- ii have made a special study of these regulations

... can fully succeed, particularly at the higher levels and with the larger developments.

A: Yes

6. Some architects think that we do not build any longer for 100 years, but for 20 or 30. What impact is this having on planning and the environment?

A: (At first he thought no impact on planning. but as we talked about this his opinion changed). You can't talk to people about quality anymore. When they come in with these ideas, then we have no appropriate arguments to talk to them about. These time scales are too short. Planning is looking at the long term horizons.

7. Do you know:

a) - how the regulatory system was devised and drafted and who by.

A: 1961, by a handful of people, architects and professors all with influence in the German Building Ministry.

b) - how has this been revised and who by.

A: The B-plan law was changed a bit in 1968, then in 1976, 77, 82 and 90. The State laws have only had 2 changes, 1970 and 1984.

c) - why it is that planning applications can only be submitted by architects.

A: Professional protection.

d) - why they should have been given this effective sinecure.

A: To protect the architects profession. This is a strong organisation.

e) - the training given to architects in R & R, Town Planning, etc.

A: Some, but very little.

f) - which architects are getting the larger jobs. Is there a pattern, if so what & why?

A: Nothing to do with knowledge, design or planning. Only how do they deal with the system OR possibly, where they win a competition, how they get an investor.

g) - who, in the system, is trained in Town Planning, the use of the rules, etc.

A: "Only 5 % in this planning department, 7 out of 150 of who only 5 have done a course on planning. No one in other departments., e.g. building. No one has details of the system or rules except by practice. The system lives through practice. My own knowledge of planning law came not from University, but from 2 years hard study for administrative position (civil service) exams. This state gives only 20 students per year. The only course at the Fachhochschule (Technical College) in planning is given by a member of this department. There is one now at the University".

1. Would you agree that Planning (as distinct from building) is not now technocratic and has become political?

A: Yes.

"A Chief Executive Planning Officer has to be measured not by the things which are realised, but by the things that are not realised"

Hans Adrian, Stadt bauamt (?), Hannover

.... in other words how much he hinders things!

He is someone I have a lot of time for. He controls his politicians.

"You have to know how to play the system and in which order - which politician, which department, etc.. Be able to take an overview. Therefore the planner is an enabler to investors OR able to use his background knowledge to avoid developments. The job is almost, in a way, a form of project management. For example the moving of a mineral water plant. The firm had to stay where the water was, but they needed new premises, The task was to be able to see all the local considerations, the firms needs, the local impacts etc. The politicians, in this case were not interested. The job is 90% enabling and having an overview of what is happening in both the suburbs and the projects."

2. How are decisions to permit major developments made before an application is made?

A: Discussed in meetings of different factions of the ruling party and then in the parties own committees. They meet every Tuesday. At another level it may be their meetings before council meetings, every month. The decisions are supposedly secret, but people in this department get to know. Yes. they operate as star chambers.

3. What do German Planners (Association?), Lawyers, Political Scientists think about

A: There is not a German Assoc. of Planners.

a) - F-plan zoning being deliberately left as vague as possible.

A: (Own opinion) There is no discussion about it at all. The period of the F-plan has now gone. I don't think we will have one again. There is a general deregulation of the system going on. It is not so important anymore.

b) - Plans and other application details are often simply adapted to suit the necessary regulations.

A:

(not put)

c) - Because of the need to preserve flexibility by manipulating the system, little true planning is being done (14).

A: This is true. Very little is done. It is only done as long as realisation is way in the future. As soon as it comes close to reality then no planning is done. It then becomes simply a matter of politics and economics.

d) - Official high level planning and (re) development ideas are often totally distorted by a swamp of intrigue and corruption at local level (34).

A: As above.

e) - When a municipality is persuaded that a development idea is a good one, that then the Municipality uses it's knowledge and capability to find a way round the system.

A: This is normal. Developers don't know about the system, neither do the architects. They have a general idea about the B-plans, etc., but no more. It is not common for lawyers or architects to have ideas about B-plans.

f) - Most decisions for major projects are the result of negotiation.

A: Yes.

g) - Some schemes obtain approval when they are adjusted to address the municipalities interests.

A: 50/50

h) - Official records do not identify size and types of development, nor do they record how many applications are outwith the original plans.

A: Yes but there is possibly a PhD study on releases from B-plans, done by a Prof. from Braunschweig. Prof. Wordman ?

j) - B-plans may only cover circa 30% of a cities area.

A: Yes - or less!

k) - The legal destinations per the Bebauungsplans are vary often varied.

A: Yes.

1. Competitions are sometimes used to hide the background negotiations and that the outcome of these competitions may also be predetermined.

a) - How is this done?

A: You have to ask what the competition really decides. Is it just for the architects or is there an investor behind it. If there is an investor behind it then OK. But 90% of competitions have no investors behind them.

b) - How often is this done?

A: Out of this remaining 10% then always.

2. Regardless of politics etc., the administration also manipulate the system to achieve what they consider desirable (39)

A: Yes.

a) - How is this done?

A: Internal contacts.

b) - How often is this done?

A: 50/50

3. Permits are given even though design details have not been addressed or reserved in conditions. What is the effect of this?

A: That's right. It's a waste of time discussing it. If a big firm come talking about corporate image then the chance is that it may be good - or at least better than what we might otherwise get.

4. Little attention can be or is given to aesthetic considerations, except in areas where special plans have been prepared (e.g. historic centres) What is the effect of this?

A: Correct.

5. Objections, even from formal departments (police, engineers) are over ridden/ignored. What can be done about this?

A: (General). As soon as you have a permit to erect the structure, you can build (within 2 years). Only then do you have to submit the full design details. But the building law does not give anyone the right to interfere with this. However, in big projects, political power can stop things people don't like. Private investors always need help of the politicians, e.g. to put a water treatment plant on public ground.

It's so easy to convince politicians about money, but not quality. Politics has become money and related impacts - jobs, taxes, re-employment.

1. How has the idea that a city has to compete with other cities arisen and how is it addressed?

(In this respect:-)

A. The Tax system. Cities are funded indirectly from the state and the Federal Govt's. One of the biggest taxes that the cities can get directly is from manufacturing - light industry. Also, the more inhabitants the more powerful a city, the politicians and the officials - and also how well paid they are. The system of paying councillors and CEO's etc.

Germans call it Kirch Turm Politics - church/bell tower politics. Everyone looks just as far as the boundary of the city.

Size gives rights. For example, 50,000 population gives a building department. 60,000 gives more political jobs. 70,000 attracts more aid from the state for cultural things.

You have to look at the influence on political decisions.

Councillors get Dm 1000 per month plus perks!

a) When were relevant policies determined? (e.g. high class, listed, city crown, etc.)

A: There is an economics department. It follows the market and other cities. They have good contacts. Every department has its commission to report to. The department of commerce has good influence, especially on planning. It is very rare that the heads of the planning and commercial departments, both directly below the CEO, are not fighting.

b) How?

A. Actually by day to day decisions being grouped together to make policy. The politicians don't do this. They can only understand and see things in terms of money.

c) Who by?

A: Effectively the officers via these small, incremental decisions.

d) When were they last reviewed?

(not put)

e) Against what criteria?

A: In the end its the Council. But before this it is the different commissions. They have to reach compromises and this is very difficult.

2. What "image" is seen as attractive to employers and how was this derived?

A: Can discuss this for years. I just try to keep up to date - the recent future that employers want. Here, although it's a special case, its the officers, using a slightly scientific background in researching this. It used to be the city culture. Now its apartments to rent and sites to buy for private houses - at a reasonable price. The emphasis now seems to be (for white collar, highly educated staff) Traffic, Manpower, Apartments, Culture, Environment.

Other more GENERAL points emerging:

1. Culture: "They" talk about building culture. Hamburg, Berlin, Munich have this. But not here. In Hamburg, thanks to Mr. Zimmer you don't see on city building or project that doesn't fit into a sort of Codex of building pattern - materials, facades, architecture, etc. Everything harmonises. Here we never had such culture of harmony, therefore we're happy if anyone does anything to try and improve things.

"The former head of this department, a very good friend of mine, was "killed" by the politicians. He had started to leave a "foot print", insisting that investors and developers produced better quality. But he was put under so many pressures that his health gave way and he was forced out."

2. Formal & Informal Power:

Look at these

3. Vorrechtsnahmen & Vorreectsgabe:

This is taking advantage and giving advantages and is illegal. If found guilty it is a criminal offence. But this is also a form of corruption.

Prof. Scheuch from Köln, has written a book about this from his field research in Köln. I should get the major passages translated. It sets out the way politicians and others try to keep in power.

"There the politicians openly compare there salaries with those in industry (numbers employed, benefits, etc.) and make this an excuse for taking other "commercial" benefits to supplement their salaries."

The Bavarian minister (current press) had money and trips to Brazil etc. and said publicly, in TV interview, that this was the same everywhere, including the north of Germany.

4: Psychology & Psychotics:

Look at the people who go through a long process over many years, ruining and losing family and friends. etc. to become powerful politicians. What must they be like psychologically?

5. Civil Service Jobs:

"If you get into trouble with the politicians, then you can get demoted or lose your job. Then you can't get another in the system. In this department there have been 4 such cases in the last 2 years. "

"So, the system traps people into having to do what they may, professionally, prefer not to. And if they get caught out with a major mistake (and everyone makes mistakes), then they are totally in the power of the politicians."

6. Questioning:

Why is no one fighting the system anymore? In the 60's and '70's we all questioned things. Since the '80's no one does anymore. (Fluoride?)

7. Networking:

Things aren't done through organised secret societies, but through networks of people who meet through societies and groups. German society is very chauvinistic. The church is still very powerful and there is "Verbindung" - the system whereby University graduates make provision to look after one another and youngsters coming through. This is a form of "Bruderbond" which operates at all different levels of German society.

Summary:

The power of R&R are used for financing politics (+some into personal hands).

There are the planning R&R and there is the plan, but there is no planning.

The plan is a pretty picture only, designed without reference to any social, demographic, economic, infrastructure, etc., considerations.

He studied architecture in Firenze but then the river rose and the university flooded and 1968 student protests caused him to seek employment in Zingonia where he met and married Alida, who is Sicilian. Consequently stayed with firm of developers for circa 12 years then, with 2 industrialist friends as silent partners, formed own development Co. First built houses then came in contact with a multi-national (ITT ?) and, as almost a one man outfit, persuaded them that he could deliver turnkey project for them. Spent intense month putting together a full team, won contract and delivered building within 9 months. This showed him a market gap for turnkey developments and he then specialised in this. Similarly built aircraft hanger in Brindizi. This specialisation means that, unusually, his firm operates out of local area. Main focus is on industrial/ commercial, high tech developments. Current interest is science parks and is negotiating know how agreement with UK international Co. (MDs' mother is Italian) - they to have no cash involvement. He will want to sell either to end users or investors and try to retain maintenance contracts.

"Turnkey" can mean finding site, designing, obtaining permits, etc. as well as developing. Sometimes this can mean having to obtain change in PRG (variante). If this is the case then clients have to be used to persuade commune that jobs, benefits, etc. will flow. But usually multi-nationals want certainty on time delivery of buildings. Therefore he usually directs them to sites that are available within PRG's. Even then there are problems with getting permits on time and this is one of the biggest difficulties. This can mean having to buy sites that are bigger than clients requirements. He then has extra land for other clients. Has built up network of multi-national clients. This also means that, similarly unusually, he has to have extensive contacts with different municipalities. However, he prefers to concentrate in local area and, if considering going outside, seeks/would seek arrangements with well connected local firm/s.

He has noticed a change in requirements. 10 years or so ago the labour unions were very powerful and clients wanted to keep manufacturing separated from offices. This power changed and combined plants were acceptable. Now changing again with manufacturing & warehousing needing to be out of town, whilst offices needed in centres.

His emphasis is on "Quality" developments and quality in development. Believes that, possibly because of political / financing etc. (see below) emphasis of most developers has been only on maximising returns from poor quality projects which have impoverished urban Italy.

Develop people. Culture of people staying with firms all time. Need for new methods of management to improve Italian efficiency.

National debt and means of financing has to be changed. Thinking people, or those "in the know" are taking their money out of Italian bonds because they see these as unsustainable. Believes Government is making plans to pre-empt crisis and switch these into property backed securities. Then to resolve much of national debt problem via privatisation - revenue from sales and release from attendant subsidies.

Limitations: Sub contractors cannot be used in government contracts. The contractor has to employ all services direct (inefficiencies). Only possible on private contracts. But thinks this will change.

Gross profit levels AFTER overhead: Commercial developers circa 25%. Residential developers circa 30 - 35% or more. Contractors circa 8%.

System of representation: Mayor promotes programme supported by several Assessore from different parties (already elected as councillors).

Change in System: Now Assessore can be all from the same party - winner takes all. He believes this will considerably simplify his job (see below).

Increases in land values - from Ag to Dev. = x 10 to 15 + when consessionione granted circa 40%

Preparation of PRG: In small towns it is possible that the preparer/designer of the PRG has to take into account all various land and political interests and incorporate these. However, major towns appoint a well known person/architect to prepare PRG, someone who is seen to be "above politics" and who in fact does not wish to get involved with the inter-party deals. When the plan is prepared it is then passed over to the politicians who divide up the new land allocations and potential development contracts according to their party strengths/representation. Each party then having the right to direct developers to particular parcels and require covert payments from them for this. Thus both land and contracts are important. Thus, it is not necessary for developers (who are usually constructors) to own the land providing they can influence the allocation either of the land or of the contracts.

In addition, the PPA is also used as an instrument to extract cash.

Financing politics: When a party wants money, they look to see what "allocations" they have in the PRG and then seek a developer/constructor to take this on. The party then appoints one person, possibly the Assessore, to negotiate a deal. This may result in a fixed sum or one related to subsequent values. Payment is to be made as to 50% when the consessionione (or the contract) is approved by the commune and 50% when this is ratified by the Region. The first 50% has to be paid at risk since, if the Region do not ratify, then this could be lost. Nothing can be written down, so the developer is exposed to the party representative being honest in what the deal was and what payments are received. Coercive powers of R&R and administration can be used to ensure he pays. To protect against possible dishonour of the local party representative and the risk of regional non approval, the developer arranges similar contacts at regional level (they benefit from the payments as well ?). This person is made fully aware of the details of the deal and can thus provide a monitoring function to protect all interests.

Example

In 1980 the party who had been allocated a parcel of land zoned in the PRG for agriculture BUT available for projects of special importance, approached him as developer. Upon checking with the Highway plans he found that this had an autostrada cross roads on part of this. But the total parcel was too big, so another 2 developers were also brought in. He decided to take the piece with the future cross roads and bought this from the land owner, paying twice the agricultural value and agreeing to pay the party as above. He had no idea what to do with the land, but after 2 years or so decided that it would be good for a commercial development. Progressively he began to prepare the land for the type of "business park" permission that he wanted, planting trees and, at the request of the municipality (who separately agreed to facilitate change of use) allowing the land necessary for the cross roads interchange (clover-leaf) to be acquired by the highway authority quickly and easily at nominal cost (was this agricultural value, i.e. a loss on what had been paid for it ?). Negotiations are now in hand for the "special importance" provision to be implemented and the land approved for "Technopole" style use.

Thus, we have an example of a parcel of land that was not zoned for anything being promoted into use for political reasons and the use only being subsequently determined by commercial/market requirements.

Milan special law: Allows commune to change use of existing buildings enabling, for example, redundant factories to be redeveloped for alternative uses. This law is being considered for replication elsewhere. But it is likely to be fully utilised by the new Lega Lombardia (Lega Nord) who, from formation 18 months ago, have taken control of the municipality with 60% of the seats, reducing the socialists from circa 30% (control via coalition with other left wing groups) to circa 8%. Under previous administrations development in the city had been almost non-existent. Thus the new regime want to demonstrate change.

All of these political arrangements cause great complications for developers. He spends 50%+ of his time dealing with these arrangements.

Hungary

Hungary's agricultural economy is rooted in the Austro-Hungarian Empire. When industrialisation swept across Europe in the 19th. century, lack of natural resources required for industry resulted in her plains and hills being seen as most suitable for growing vines and foodstuffs. Austria was chosen as the place for industrial growth. After WWII the Socialist bloc's urge to compete industrially with the West saw all of the Eastern European countries put onto an industrial development programme. Hungary, it was decided, should become more of an industrial economy, reshaping her spatial and infrastructure development.

But no equivalent of the Marshall Aid programme was ever provided in the East. Economically, an industrial Hungary never worked. Although it created employment it led to a situation in which products were made for which there was no demand. This also led to the decree, in the 1960's and '70's that only prefabricated systems could be used on larger developments, in order to keep related industries employed. To preserve employment, industries were often operated at a loss. Innovations requiring capital investment were usually impossible. As industries aged so their ability to deliver products for which there was real demand, weakened.

In the early 1980's economic reforms began. They led to the closure of the first, non profitable, industries. Privatisations accelerated this process. One estimate is that upwards of 50% of industrial plants were closed. Socialism's hidden unemployment was revealed. Industries once the pride of Socialism, lost their glory. Today, heavy industry and new production lines are in deep trouble, although assembly industries have survived reasonably well (Karssenberg, 1994).

Under the Socialist regime urban development was related to economic development. Both were subject to 5 year plans. When an area was designated for reconstruction this implied wholesale demolition with, in the case of residential redevelopment, replacement by prefabricated buildings - lego assemblies of concrete panels to form high rise apartment blocks. Paper utopias were, in practice, used to ban new building, necessary to secure low expropriation prices. General plans (see 10.2.1) were not implemented and became out of date, but development remained prohibited. This limited values, private sales and in situ home improvement.

During the '80's a generation of leaders resigned. This caused a shift in thinking within the Party. Informal 'gentlemen's' agreements as to how things were organised, run and developed, began to slowly melt. The pyramid of communism began to crack. Small building plots which had remained empty - for 'security' or other reasons - were, in 1986, released, many being handed over to Party members. In September 1987 foreign development capital for tourism, up to US\$250m., was allowed into the country.

Government & Administration

The Republic of Hungary is divided into 19 counties. These are served by 8 *Representatives* or '*Titular Secretaries of State*' of the government (1 Budapest, 7 remainder), appointed by the President on the Prime Ministers recommendation. Each is directly accountable to the Minister of the Interior with responsibilities for the legal supervision of municipal activities and their organisational structures. Unlawful practices are drawn to their attention. Failure to respond may result in them being sued by the Representative in the Constitutional Court. He has no right to intervene or enquire into local government's economic decisions. Essentially his office is the forum for appeals against decrees and decisions of mayors and local authorities. Previously the appeal forum was the County Councils. These now enjoy only a co-ordinative rather than hierarchical relationship with municipalities and have limited powers (Karssenberg, 1994).

Of the political parties, the SzDSz is supposedly more liberal than Fidesz. But there is disagreement about this. After the Velvet revolution the SzDSz was the most radical of the parties, opposing everything of the former regime. Talk of a union with Fidesz, the young liberals i.e. for young people, did not work out and progressively Fidesz opposed the government, more for power games than policies. Additionally former Socialist party members found their way into SzDSz. By 1993 the ideals of Fidesz were considered the more liberal but this distinction was masked as policies increasingly appeared irrelevant. For example it was claimed that all the rich Jews and controllers of the media belonged to the SzDSz. A media 'clean up' operation was being conducted by the government with many national TV personnel being dismissed. Personal power games around claims of who had the biggest Socialist history, also featured. In short, no clear distinction could be made BUT personal politicking seemed much to the fore (Karssenberg, 1994).

Both local authority staff and elected officials all seem, contemporaneously, to avoid taking responsibility and yet reluctant to avoid it. They are afraid of being blamed for bad results. Partially this is understandable. Elected officials do not have the same background in administration as they do as politicians. Sometimes it is difficult to obtain sufficient information from reliable sources and, in the general atmosphere of 'political jockeying', suspicions as to their correctness, etc. are rife, especially since many professionals served under

the earlier regime. Immediately after the VR everyone was afraid to lose their jobs, and with reason. In some municipalities everyone fought with everyone else and many people were fired because of their overt socialist political pasts. A very hostile atmosphere existed in which every move could be wrong.

"(previously) decisions were made politically, not professionally. Today they are still made politically, but more people have a say. Everyone wants to decide." (Hu-01/5)

Hungary's Planning and Development Control System⁴⁰⁷

Hungary's land use regulations date from the latter part of the 1900's, using urban plans to establish street lines, block sizes and provide very detailed plans. A simple form of land zoning (5 zones) was introduced 1914. The building and development codes are founded on notions of space for development, transport and rational street networks, rather than health, fire and safety regulations, as is the case in much of western Europe. Health aspects were not considered so important, although after 1918 the first building codes prohibited what had become traditional closed courtyards, allowing only connected 'L' shapes. Until the Velvet Revolution, the German zoning system of the inter-war years had survived virtually intact. They had not been modernised and very few changes occurred over the 40 years or so before the VR. Now there is a political driving force for modernisation (Cséth, 1993)

To build and occupy anything in Hungary the following must be obtained:-

- in some cases (especially if plan variations are envisaged) a 'theoretical' LA permit
- a building permit from the LA
- permits from several other authorities (applicant to obtain direct)
- a declaration from the contractor that the building will be according to the regulations
- approval of completed works from all different authorities (applicant to obtain direct)
- a use permit from the municipality (this can even be denied on the colours used)

Before application can be made for a building permit a land use permit must be obtained.

Applications consist of design drawings and technical detail documents, details of surrounding infrastructure, and proof of land ownership. No further approval is needed for working drawings but each separate authority has to give its approval on completion before the LA can issue a use permit.

50%–60% of applications are refused on first submission, approvals being secured usually on the 2nd. or 3rd. attempt. Although applications are tough for small projects, once approval is obtained 'nobody cares' about the rest. However, for major projects usually the use-permit is the biggest problem.

Appeals used to be to a second level between municipality and state, but this has been abolished and these are now made to the state *Representative*. The tension which exists between municipalities and *State Representative* can sometimes be used to get a permit.

Architects and engineers are the only people authorised to make plans. Architects may do so according to their level of qualification⁴⁰⁸. They may also make proposals for changes to detailed plans. Unlike changes to general plans (see below), these can take from 3 months to 3 years to obtain approval.

In principle Hungarian planning is still controlled by its strict national building codes, the OÉSZ. However, after the VR alterations were made through Government Decrees dividing competence for decisions on cer-

⁴⁰⁷ Information provided primarily by informants CE-01/1, CE-01/2, & CE-01/6, supplemented by Karssen-berg. For further information see (Baar and Zsamboki 1992)

⁴⁰⁸ The system of architect levels was introduced in 1988. Level E1 gives the greatest rights, E4 the lowest (E being the first letter of the Hungarian word for architect). It was instigated to eliminate competitions and jury decisions, which were said to be corrupt. A committee, appointed by the ministry, decides, subject to certain criteria being met. 'E1' requires a degree from the University of Budapest, the only one for architecture in the country. 5 yr. in practice, and examples of built projects. Decisions are partly political, but more important is a professional lobby. The important organisation is the Association of Hungarian architects, prominent when architects were associated with the Chamber of Engineers. This is somewhat of a remnant from the 1950's, when architecture was considered not as art but as engineering. More recently the Chamber of Architects has been established. Today it is financially important for architects to have their work recognised as art: the VAT rate on plans produced by engineers is 25%, for architects, providing the design is considered as art, it is 6%. Whether or not a design is considered as art is determined by a jury, usually comprised of architects. These juries are, in effect, companies with a licence from the State to make such assessments. They provide a means of professional protectionism and one route through which architects can secure work and earn money.

tain types of plan, etc. between different levels of government. Hungary has no national or regional plans and, pending revision⁴⁰⁹, the former 2 tier system of local plans continues to be followed. These comprise the *általános rendszési terve (ART)*, and the *RRT* or detailed plan. Formal adoption by a municipality gives them both legal status.

The *ART* is in two parts: the general plan at a scale of 1:10,000; and the regulation plan at a scale of 1:4,000 plus 60 sheets at a scale of 1:1,000. Officially it also contains a time schedule for building over a 10-15 year period, but at the time of this research this had become impossible to assess due to all the changes taking place. In Budapest the 1:20,000 is also used for the general plan, supplemented by charts for the agglomeration at 1:50,000. Districts can make plans at 1:8,000, 1:4,000 and 1:1,000 (the most frequently used). The smallest unit a district can make a plan for is one block.

The *RRT*, or detailed plan supposedly applies to 'problem' areas, i.e. in areas where professional problems of development or redevelopment cannot be resolved within the scale of the general plan. It is very detailed containing regulations covering exact street widths, height and number of floors, etc.. Areas for detailed plans are defined in the general plan by its author and the municipality has to accept these when they approve the *ART*. Confusingly, however, municipalities have the right to ask for a detailed plan if they think one is needed whenever a specific proposal is made. Because of the larger scale, the detailed plan can contain more detailed regulations and requirements. This can enable a municipality to exercise greater control over an important, perhaps high density, area when large interests are at stake. Once an *RRT* is legalised the municipality has the responsibility for its implementation, making it *de facto* a building authority. However, in the opinion of one CA, a detail plan does not define the kind of building. It is more detailed documentation, defining the width of streets, percentage of green space, etc., with heights, scale, etc. of buildings being determined by those in the immediate surroundings (Hu-02/2).

Hungarian regulation is very rigid. Only a few possibilities to change the existing plan of an area exist. These concern flexibility over aesthetics, seeking the opinion of the region's Chief Architect, obtaining the permission of the council to small changes, and, more importantly, securing exceptions. These are possible because plans specify what is allowed rather than what is not allowed. Even small alterations in the general plan have to be presented to the appropriate committees and eventually the full council for decisions.

Applications which do not comply with the national building codes, general and detailed plans, and local decrees, can be refused by the CA. Permits carry a disclaimer on their reverse that the document is no more than a permit, possibly freeing the municipality from any (financial) accountability for the decision made in the permit. Where questions of aesthetics are involved, the opinion of the Chamber of Hungarian Architects can be sought.

Both development and use permits can only be issued to landowners⁴¹⁰, which ownership has to be evidenced at the time of formal application. Partially to overcome this, partially to demonstrate serious intent to build rather than speculate, and partially to address the rigidity of the plan, the practice of seeking a '*Theoretical permit*' has grown up throughout Hungary. This requires applicants to present costly, detailed designs to secure an (informal) commitment to approve a subsequent formal application. Unlike a formal application, where the decision of full council is required within 30 days, the CA decides whether or not to grant a theoretical permit. Appeal can be made to the *Köztársasági Megbízott Területi Hivatala*, a regional committee for civilian conflicts with municipal decisions, but their verdict is purely advisory. If a proposed function is considered better than that shown by the plan, then the council can change the plan. It therefore becomes an instrument to instigate flexibility, providing the basis for the formal application. There appear to be few rules which enable a CA to refuse permission if he wants to do so and those rules which there are 'do not go very deep'. Land ownership is regarded as the most important factor of control. If an application does not diverge too much from the main lines of the formal plans⁴¹¹, then it has to be approved.

Before approval statutory consultations are required with a number of bodies, including fire, public health, gas, electricity, hard infrastructure, environmental committee (since June 1993) and roads, all independent

⁴⁰⁹ As noted (10.1) Hungary's planning system is evolving. The extant, guiding legislation is Act III of the 1964 'Building Law' and its 1968 enacting clauses. This is to be replaced by a completely new Act, currently being prepared by the *KTM*, the Ministry for Environment and Territorial Development. (Hungary no longer has a national building ministry - there appears to be no major authority.) which will provide for 2 types of plans: land use and regulation. The intention is that regulation plans will be derived from land use plans. *OE Sz*, the national building code, will be partly replaced by local codes as determined by each local authority. Apparently the text is ready but more pressing issues occupy parliamentary time.

⁴¹⁰ Ministerial decree 12/1986 (Xii.30).

⁴¹¹ The extent of such permissible divergence could not be established and may, indeed, vary per authority.

bodies at the municipal level; town planning aesthetics and technicalities, and town maintenance, both departments within the municipality. In practice the whole process takes 2 - 3 months. To save time, if a proposal is reasonably straightforward the CA can take the responsibility, tell the developer / investor to prepare the plans while the council decides, and then get permission immediately afterwards.

Development (planning) permits have a 3 year time limit. Intended to limit the period of disrupting construction activity, they can be extended on application. They can also be used as an instrument against speculation, but the fines are not so large as to dissuade major players. Also, although the extent of the practice or the applicable criteria is unknown, it is possible for a building to be erected without permits and, rather than being ordered to demolish this, pay a fine to the municipality for them to permit its use.

The Decision to change an area's zoning rests with the municipality, ceded within Budapest (comprising 22 district municipalities) to the capital county. Anyone can apply for this and, if there is economic pressure to do so, such applications are usually granted. First an environmental impact study has to be prepared, usually by landscape architect / planners and horticulturist, and presented to the municipality (34 copies in Budapest). Delegated special committees review and comment on the development proposals before passing them on to all committees for their comments. If the majority approve, then the planning department issues documents establishing the new zoning. This procedure takes around 4 or 5 months, faster outside Budapest.

In so called *recreation zones* 'temporary' dwellings can be built, notionally for weekend and vacation use. But there is no real legal distinction between housing and recreational dwellings, the main criteria being size of plot, height and ration of built area, and heating systems. However, in a recreation zone the municipality, usually short of funds, does not have to provide infrastructure. Also, after an illegal building has remained standing for 10 years, it automatically becomes official. Fines, if they have to be paid, are low.

"The least regulated are the environmental criteria. These have to be dealt with only in industrial zones. For Budapest there are stricter regulations, but in general, planning in Hungary is 'post facto'." (Hu-01/6)

However, for all its rigidity, today the driving force for planning is the concern with declining economy and employment. Physical planning is less important, possibly presenting a good opportunity to reform this (University of Budapest).

Land tenure in Hungary

Although private ownership of individual houses was permitted in Hungary during the Socialist regime, mass nationalisation of Hungarian lands began in 1949 and lasted for 2 years. On behalf of the State such properties were managed by large State companies and municipalities as representatives of the State. For example vacant urban sites became the responsibility of local authorities and their town planning departments. By mandate they could act as if they owned them. The Municipalities Act of the new regime effectively transferred such ownerships along much the same lines. Ownership, and an absolutely correct register of holdings, was not an issue in the non-market system. But this was exacerbated by the lack of adequately trained and qualified personnel⁴¹². In fact in many cases the re-privatisation showed that large parts of state owned property were never registered as nationalised lands. In the land register they could be found under the names of the original owners.

Now that the municipalities have taken over the former state properties a new data base is being created to enable a 'correct approach' to be taken to property management activities.

Illustrative of the difficulties for re-privatisation is the need to first of all determine whether or not a piece of land belongs to someone. This causes enormous delays in the planning process. Occasions arise when a development plot belongs to 3 or 4 owners. Even when it is clear who the owner is there can still be problems.

⁴¹² In the early days of socialism, all intellectuals were mistrusted and removed from their jobs, both in politics and administration. These jobs were given to 'the people' who lacked capability. In the decade before the VR the situation changed. This became known as the third generation of socialists. It comprised well educated people, some of whom had studied overseas, for example in Moscow and even Oxford. This accounted for the smoothness of the VR in which the then top politicians saw greater prospects in business rather than government. But also, in the first 4 years of the new regime, the socialists turned out to be the most experienced politicians. Despite their initial major electoral defeats, it was they who knew best how to play the power games.

There is a lack of regulation concerning leaseholds which creates very unclear situations. Separate registers were maintained for buildings and land, with different records on private ownership rights. In some cases there was simply no register for the land at all. These registers appear to be in a state of enormous chaos. For example buildings could belong to an individual and the land to the state, although now transferred to the municipality. In general tenure is absolute freehold. After the Socialist years this is jealously guarded.

For further information see (Baar and Zsomboki 1992)

Czech Republic (Czechia)

The end of one-party government in November 1989 brought forth a series of political, economic and social changes. Politically this meant transition from totalitarianism to freedom, plurality, parliamentary democracy and independent foreign policy. Economic change involved gradual transition to a market economy and free international trade without class-political axioms. Socially the end of state surveillance of citizens led to a revival of humanitarian values, personal initiatives and removal of undeserved privilege (Hammersley, Meier, and Westlake 1993) (Jacobs 1993) (Rysavy and Dousa 1991).

Czechia's Planning and development control system

The Czech Republic, it seems, has moved rapidly from community orientated, social concern, through domination by economics, and, questionably, back to a public good approach to its planning and regulation. Influenced by the German model, Hradec Kralove, in Eastern Bohemia held a competition for a regulation plan as early as 1884, and the first, comprehensive, formal regulation plan for the town was made in 1890 by the City Regulation Bureau. The Czechs developed a strong urban planning tradition, mixing German, Austrian and Garden City ideas in practice⁴¹³. Plans were given legal status.

A year after the communists took power in 1948 the Town Planning & Development Act defined town planning as part of economic planning, itself subservient to political decisions. Reflecting the Marxist ideology, economic planning was seen as central to effective control. Physical planners were required to translate economic objectives into spatial terms, but without synthesising feedback. Wide spread environmental problems resulted leading to the establishment of special regional and local planning departments, the two state planning Bureau - Terplan (state institute for physical planning) in Prague and Urbion (state institute for town and regional planning) in Bratislava, Slovakia - and the Physical Planning and Building Regulations of 1976. All are extant, although a new physical planning act is being prepared along the lines of the German and/or French models.

Economic emphasis gave enterprises an exaggerated role, enabling them to undermine the position of local authorities and use urban space according to their own needs. An investigation in 1988 found municipalities failing to fine enterprise for pollution because they feared withdrawal of their support in improving city infrastructure.

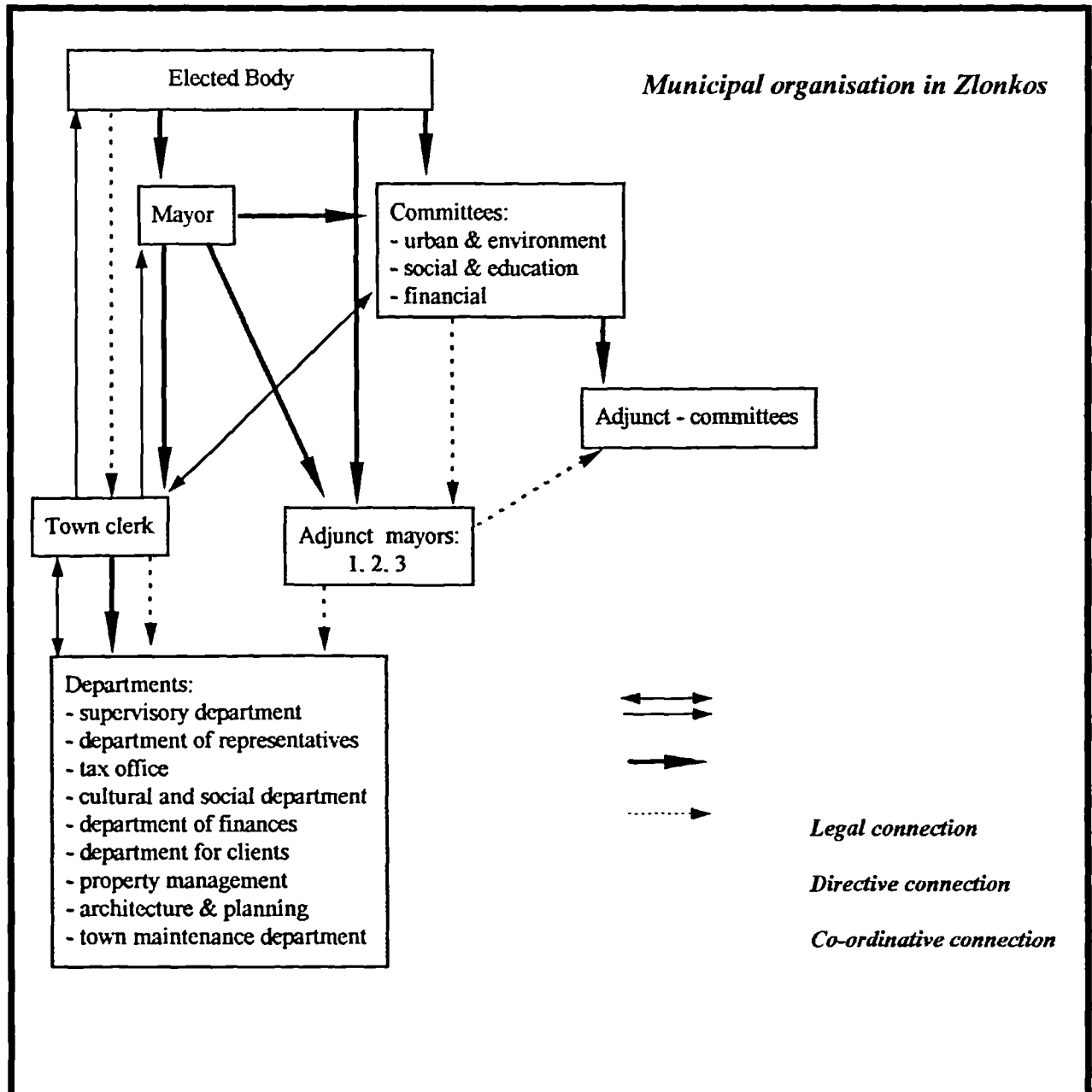
After the 'Velvet Revolution' the problems of centralism, accountability, powerlessness against ministries or military, ineffective implementation and limited public support were officially noted. Special treatment of government and socialist organisations has been stopped, districts have lost much of their power and municipalities are free to issue decrees that are more strict than the national laws, but it is not clear what they are used for⁴¹⁴.

Since 1992 environmental planning and objectives must be included as part of any master plan BUT, the responsibility for physical planning and land development has been transferred from the Ministry of the Environment to the Ministry of Economic Development.

As in England, Czechia requires separate permits for planning and building, but planning is still concentrated on the process of building. Additionally up to 70 separate permits have to be negotiated separately by the applicant with consultant authorities, e.g. fire department, utility companies, roads, rivers, etc.. These permits have to be lodged with the LPA when the planning and building applications are made. Formal planning and building permits will not be given until this is done, although exactly which sub permits are necessary in each case is determined by the municipal officials. The planning laws appear to say only 'go to these authorities and get their permissions'

⁴¹³ e.g. Zlin, built around the Bata shoe factory (Jacobs, Hermans, and Lepelaars 1993) and the railwaymen's neighbourhood in Louny (Hammersley, Meier, and Westlake 1993)

⁴¹⁴ e.g. they could decide to have higher fees for pollution.



Appendix 14

Background to practices by country

| Ch11-Change | | CHANGE | | | | | | DRIVER | | | | | | ACTORS & AGENCIES | | | | | | | | | | | | | | | | | |
|---|------|------------------|--------------------|----------------------|----------------------|------------------------|-----------------|------------------------|--------------|----------------|------------|-----------------------|---------------|-------------------|-------------------|----------------------|------------------|-------------------|-----------------------|-----------------|-------------|--------------------|-------------------|----------------------|------------|---------------------|------------|-----------|----------|--|--|
| CASE | TYPE | Plan use changed | Policy use changed | Comprehensive redev. | Years for use change | Years - idea to permit | Appeal involved | National/Higher Policy | Local Policy | Infrastructure | Technology | Economic circumstance | Market demand | Private interests | Political leaders | Ordinary politicians | Department heads | Ordinary officers | Statutory consultants | UDC / SEM / Eto | 3rd Parties | Higher Gov't level | Other consultants | Land/property owners | Developers | Private consultants | Financiers | Investors | End user | | |
| E-01 | L-H | 1 | 1 | 1 | 9 | 2 | | 1 | | | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| E-02 | M-CR | | | | 17 | | 1 | | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| E-03 | R | 1 | 1 | | 20 | 2 | 1 | 1 | | | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| E-04 | M-CR | | | 1 | | | | | | | | | | 1 | | | | 1 | 1 | | | | 1 | | | 1 | | | | | |
| E-05 | S | 1 | 1 | | 16 | 3 | 1 | 1 | | 1 | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| E-06 | L-E | 1 | | 1 | 10 | 2 | | | 1 | | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| E-07 | R | 1 | 1 | 1 | 5 | 2 | 1 | 1 | | | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | | | |
| E-08 | M-IC | 1 | | | 20 | 1 | 1 | | | 1 | | | | 1 | | 1 | 1 | 1 | 1 | 1 | | | | | 1 | 1 | 1 | 1 | | | |
| E-09 | R | 1 | | | 15 | 1 | | | | | 1 | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | | | | 1 | 1 | 1 | | | |
| E-10 | S | 1 | 1 | 1 | 15 | 4 | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| E-11 | MIR | | | | 15 | 2 | | | | | | | | 1 | | | | 1 | 1 | | | | | | | 1 | | | | | |
| England Til | | 8 | 5 | | 42 | 19 | 5 | 5 | 1 | 3 | 4 | 4 | 5 | 8 | 5 | 5 | 8 | 11 | 11 | 11 | 2 | 5 | 2 | 5 | 3 | 7 | 11 | 1 | 3 | | |
| of 11 | | 73 | 45 | 4 | 13 | 2 | 4 | 45 | 9 | 27 | 36 | 36 | 45 | 73 | 45 | 64 | 73 | 77 | 77 | 18 | 45 | 18 | 45 | 27 | 64 | 100 | 9 | 27 | | | |
| N-01 | M-CR | 1 | | 1 | 8 | 2 | | 1 | 1 | 1 | | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| N-02 | C | 1 | | | 10 | 3 | 1 | | | 1 | | 1 | 1 | 1 | | | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | | | |
| N-03 | L-H | 1 | | | 1 | 1 | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| N-04 | I | | | | 11 | 2 | | | | | 1 | | 1 | 1 | | 1 | 1 | 1 | | | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| N-05 | M-CR | 1 | | | 10 | 2 | | 1 | 1 | | | | 1 | 1 | 1 | | 1 | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| D-01 | L-H | 1 | | | 18 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | | | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| D-02 | M-SR | 1 | | | 19 | 2 | | | | | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| I-01 | S | 1 | 1 | | 5 | 1 | 1 | 1 | | | | | 1 | 1 | 1 | 1 | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| I-02 | M-LC | 1 | 1 | 1 | 6 | 1 | 1 | | | | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| I-03 | L-H | 1 | | | 3 | 1 | | 1 | | 1 | | | 1 | 1 | 1 | | 1 | | | | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| I-04 | H-PC | 1 | 1 | | 7 | 5 | 1 | 1 | | | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| I-05 | R | | | | 12 | 3 | | | | 1 | | | 1 | 1 | 1 | | 1 | | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | | |
| F-01 | M-CR | 1 | 1 | 1 | 5 | 2 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | | | 1 | 1 | | | | 1 | 1 | 1 | 1 | 1 | | |
| F-02 | R | 1 | 1 | | 6 | 3 | | | 1 | | | | 1 | 1 | 1 | | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| F-03 | L-H | 1 | 1 | | 9 | 2 | | | 1 | | 1 | 1 | 1 | 1 | 1 | | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| F-04 | R | 1 | | 1 | 10 | 3 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | |
| F-05 | R | 1 | | | 17 | 1 | | | | | | | 1 | 1 | 1 | | 1 | | | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| Mainland Til | | 15 | 6 | 1 | 57 | 35 | | 8 | 6 | 6 | 6 | 4 | 17 | 13 | 13 | 1 | 5 | 4 | 6 | 4 | 7 | 9 | 15 | 17 | 16 | 5 | 8 | | | | |
| of 17 | | 88 | 3 | 74 | 9 | 2 | 2 | 29 | 47 | 35 | 35 | 41 | 82 | 104 | 76 | 41 | 59 | 29 | 24 | 35 | 24 | 41 | 53 | 88 | 77 | 94 | 29 | 47 | | | |
| CE-01 | C | 1 | | | 5 | 2 | | | 1 | 1 | | 1 | 1 | 1 | 1 | | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| CE-02 | L-H | 1 | 1 | | 3 | 4 | | 1 | 1 | | | 1 | 1 | 1 | | | 1 | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | | |
| CE-03 | M-IC | 1 | | | 2 | 4 | | | | 1 | | | 1 | 1 | | | 1 | | | | | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| CE-04 | M-LC | 1 | 1 | | 5 | 2 | | | 1 | 1 | | | 1 | 1 | 1 | | | 1 | | | | | | 1 | 1 | 1 | 1 | 1 | 1 | | |
| Central E. Til | | 1 | | | 12 | | | 5 | 3 | | | | | | | | 1 | | | 2 | | | | 3 | 1 | 1 | 3 | | | | |
| of 4 | | 78 | 3 | | 4 | 5 | | 75 | 75 | | | | | | 0 | 1 | | | 25 | 0 | 50 | 0 | 75 | 77 | 100 | 75 | 1 | | | | |
| Grand Til | | | | | | | | | | | | | | | 4 | 22 | 1 | | 5 | 11 | | 14 | 27 | 25 | 31 | | | | | | |
| of 2 | | | | | | | | | | | | | | | 2 | 5 | 7 | 34 | 7 | 43 | 6 | 55 | 7 | 5 | | | | | | | |
| L-H Leisure - Hotel; L-F Leisure - Entertainment (Cinema); M-CR Mixed - Commercial Residential M-IC Mixed - Industrial Commercial; M-IR Mixed - Industrial Residential; M-SR - Mixed - Shops Residential M-LC Mixed - Leisure Commercial; R Residential; S Shops (Superstore Hypermarket); C Commercial (Offices) I Industrial; H-PC Hospital - Private Clinic | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |

Appendix 15

Background to practices by development type

| Chll-Change | | CHANGE | | | | | | DRIVER | | | | | | | ACTORS & AGENCIES | | | | | | | | | | | | | |
|-----------------|------|------------------|--------------------|----------------------|----------------------|------------------------|-----------------|------------------------|--------------|----------------|------------|-----------------------|---------------|-------------------|-------------------|----------------------|------------------|-------------------|-----------------------|-----------------|-------------|--------------------|-------------------|----------------------|------------|---------------------|------------------------|----------|
| CASE | TYPE | Plan use changed | Policy use changed | Comprehensive redev. | Years for use change | Years - idea to permit | Appeal involved | National/Higher Policy | Local Policy | Infrastructure | Technology | Economic circumstance | Market demand | Private interests | Political leaders | Ordinary politicians | Department heads | Ordinary officers | Statutory consultants | UDC / SEM / Etc | 3rd Parties | Higher Gov't level | Other consultants | Land/property owners | Developers | Private consultants | Financiers / Investors | End user |
| E-01 | L-H | 1 | 1 | 1 | 9 | 2 | | 1 | | | | 1 | | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| N-03 | L-H | 1 | | | 1 | 1 | | | 1 | | | | 1 | 1 | 1 | | 1 | 1 | | | 1 | | 1 | 1 | 1 | 1 | | 1 |
| D-01 | L-H | 1 | | | 18 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | | | | | 1 | 1 | 1 | 1 | 1 |
| I-03 | L-H | 1 | | | 3 | 1 | | 1 | | 1 | | | 1 | 1 | 1 | | | | | | | | | 1 | 1 | 1 | 1 | 1 |
| F-03 | L-H | 1 | 1 | | 9 | 2 | | | 1 | | | 1 | 1 | 1 | 1 | | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| CE-02 | L-H | 1 | 1 | | 3 | 4 | | 1 | 1 | | | 1 | 1 | 1 | 1 | | 1 | | | | 1 | | | 1 | 1 | 1 | 1 | 1 |
| Residential Til | | | | | 4 | | | 1 | | | | | | | 4 | | 4 | 2 | | | 3 | 1 | 3 | 5 | | 3 | | |
| ave of 11 | | | | | 1 | | | 1 | | 32 | | | 3 | 1 | 1 | 1 | 1 | 33 | 1 | 1 | 50 | 1 | 50 | 33 | 5 | 100 | 50 | 92 |
| E-02 | M-CR | | | | 17 | 1 | | | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | | 1 | 1 | | |
| E-04 | M-CR | | | 1 | | | | | | | | | | 1 | | | | 1 | 1 | | | | 1 | | | 1 | | |
| N-01 | M-CR | 1 | | 1 | 8 | 2 | | 1 | 1 | 1 | | | | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| N-05 | M-CR | 1 | | | 10 | 2 | | 1 | 1 | | | | 1 | 1 | 1 | | 1 | | | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| F-01 | M-CR | 1 | 1 | 1 | 5 | 2 | 1 | | 1 | | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 |
| E-08 | M-IC | 1 | | | 20 | 1 | 1 | | | | 1 | | | 1 | | 1 | 1 | 1 | 1 | | | | | 1 | 1 | 1 | 1 | 1 |
| CE-03 | M-IC | 1 | | | 2 | 4 | | | | | 1 | | | 1 | | | 1 | | | | | | | 1 | 1 | 1 | 1 | 1 |
| E-11 | M-IR | | | | 15 | 2 | | | | | | | | 1 | | | | 1 | 1 | | | | | | | 1 | | |
| I-02 | M-LC | 1 | 1 | 1 | 6 | 1 | 1 | | | | | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| CE-04 | M-LC | 1 | 1 | | 5 | 2 | | | 1 | 1 | | | | 1 | 1 | | 1 | 1 | | | | | | 1 | 1 | 1 | 1 | 1 |
| -02 | M-SR | 1 | | | 19 | 2 | | | | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| Mixed Total | | 4 | | | 18 | | | 2 | 1 | 3 | 3 | 4 | 1 | | 6 | 5 | 6 | 6 | 8 | 3 | 3 | 3 | 3 | 6 | 9 | 1 | 4 | 3 |
| ave of 11 | | | | | 3 | | | 8 | 36 | 4 | 2 | 1 | 1 | 1 | 55 | 45 | 55 | 55 | 73 | 27 | 27 | 27 | 55 | 82 | 91 | 36 | 27 | |
| E-03 | R | 1 | 1 | | 20 | 2 | 1 | 1 | | | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| E-07 | R | 1 | 1 | 1 | 5 | 2 | 1 | 1 | | | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| F-09 | R | 1 | | | 15 | 1 | | | | | 1 | | | 1 | | 1 | 1 | 1 | 1 | | 1 | | | | | 1 | 1 | 1 |
| -05 | R | | | | 12 | 3 | | | | 1 | | | 1 | 1 | 1 | | | | | | | | 1 | 1 | 1 | 1 | 1 | 1 |
| F-02 | R | 1 | 1 | | 6 | 3 | | | 1 | | | | 1 | 1 | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| -04 | R | 1 | | 1 | 10 | 3 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| -05 | R | 1 | | | 17 | 1 | | | | | | | 1 | 1 | 1 | | 1 | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| Residential Til | | | 3 | | 85 | 15 | | 2 | 2 | 2 | 2 | 3 | 5 | 5 | 5 | 4 | 4 | 4 | 3 | 3 | 2 | 2 | 4 | 4 | 5 | 7 | 0 | 0 |
| ave of 7 | | 56 | 43 | | 12 | 2 | 2 | 24 | 29 | 29 | 29 | 43 | 71 | 71 | 71 | 57 | 57 | 57 | 43 | 43 | 29 | 29 | 57 | 57 | 71 | 100 | 0 | 0 |
| E-05 | S | 1 | 1 | | 16 | 3 | 1 | 1 | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | | 1 | 1 | 1 | 1 | 1 |
| E-10 | S | 1 | 1 | 1 | 15 | 4 | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| I-01 | S | 1 | 1 | | 5 | 1 | 1 | 1 | | | | | 1 | 1 | 1 | 1 | | | | | | 1 | | 1 | 1 | 1 | 1 | 1 |
| Shops Til | | 3 | 3 | | 36 | 8 | | 3 | 0 | 1 | 1 | | 3 | 7 | 3 | 3 | 3 | 2 | 2 | 0 | 2 | 1 | 1 | 2 | 3 | 3 | 0 | 3 |
| ave of 3 | | 100 | 100 | | 12 | 3 | 6 | 100 | 0 | 33 | 33 | 33 | 100 | 67 | 100 | 100 | 100 | 67 | 67 | 0 | 67 | 33 | 33 | 67 | 100 | 0 | 100 | 100 |
| N-02 | C | 1 | | | 10 | 3 | 1 | | | | 1 | | 1 | 1 | | | 1 | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| CE-01 | C | 1 | | | 5 | 2 | | | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | | | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 |
| I-04 | H-PC | 1 | 1 | | 7 | 5 | 1 | 1 | | | 1 | | 1 | 1 | | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| N-04 | I | | | | 11 | 2 | | | | | 1 | | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 |
| E-06 | L-E | 1 | | 1 | 10 | 2 | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 |

L-H Leisure - Hotel; L-E Leisure - Entertainment (Cinema); M-CR - Mixed - Commercial Residential
M-IC Mixed - Industrial Commercial; M-IR Mixed - Industrial Residential; M-SR - Mixed - Shops Residential
M-LC Mixed - Leisure Commercial; R Residential; S Shops (Superstore/Hypermarket); C Commercial (Offices)
I Industrial; H-PC Hospital - Private Clinic

Appendix 16

Tabular analyses by country

| Q 1 & 2: Considering decisions: | | | | | | | | | | | TYPES of and MOTIVES for decisions | | | | | | | | | | | | | | | | |
|---------------------------------|------------------|------------|------------|---------|-------------|-------|-------------|-------------|-------|---------------|------------------------------------|---------------|---------------|------------|-------------|--------|-----------------|---------------------|---------------------|---------------------|------------------|--------------|-------------------|-------------------|------------------|---------------|---|
| Country & Case No. | Development Type | | | | | | Site type | | | | Decision type | | | | Instruments | | | | | Motive for decision | | | | | | | |
| | Mixed | Commercial | Industrial | Leisure | Residential | Shops | Brown field | Green field | Urban | Redevelopment | Conform to plan | Observe rules | Discretionary | Negotiated | Regulatory | Policy | Favour Obligatn | Vehicle (bribe etc) | Planning principles | Env. protect'n | Env. exploitat'n | Env. quality | Compete / promote | Financial reasons | Planning reasons | Other agendas | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | 1 | 1 | 1 | | 1 | | | 1 | 1 | | 1 | | | 1 | | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | | | 1 | 1 | | 1 | | | 1 | | |
| E-03 | | | | | 1 | | | | 1 | | | | | 1 | | 1 | | | 1 | | | | | | 1 | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | | | 1 | | 1 | 1 | | | 1 | 1 | | | | | | | |
| E-05 | | | | | | 1 | | | 1 | 1 | | | 1 | | | 1 | | | | | | 1 | | 1 | | | |
| E-06 | | | | 1 | | | 1 | | | | | | 1 | 1 | | 1 | 1 | | | | | 1 | 1 | | 1 | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | | 1 | 1 | | | | | | | | | 1 | | 1 | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | | 1 | 1 | | | | | | 1 | | | | | 1 | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | | | 1 | | | 1 | | | | | 1 | | | | 1 | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | 1 | 1 | | | | 1 | | | | | | | | 1 | 1 | | 1 | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | | | 1 | | | | | | 1 | | | | | | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 1 | 1 | 8 | 7 | 1 | 7 | 1 | 0 | 2 | 3 | 2 | 2 | 4 | 4 | 0 | 8 | 0 |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | | | 1 | 1 | | 1 | | | | | | | 1 | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | | | 1 | 1 | | 1 | 1 | | | | | | 1 | 1 | | 1 | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 2 | 2 | 0 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 1 | 0 | 1 | 0 |
| D-01 | | | | 1 | | | | | 1 | | | | 1 | 1 | | 1 | | 1 | | | 1 | | 1 | 1 | | 1 | |
| D-02 | 1 | | | | 1 | 1 | | | | 1 | | | | 1 | 1 | 1 | | | | | 1 | | | 1 | 1 | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 2 | 2 | 1 | 2 | 0 | 1 | 0 | 0 | 1 | 1 | 1 | 1 | 1 | 2 | 0 |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | | 1 | 1 | 1 | | 1 | 1 | | | | | | 1 | | 1 | | |
| F-02 | | | | | 1 | | | 1 | | | | 1 | 1 | 1 | | 1 | 1 | | | | 1 | | 1 | | 1 | | |
| F-03 | | | | 1 | | | | | 1 | | | | 1 | 1 | | 1 | | 1 | | | 1 | | 1 | | 1 | | |
| F-04 | | | | | 1 | | | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | | | 1 | 1 | | | | |
| F-05 | | | | | 1 | | | | 1 | | | | 1 | 1 | | | 1 | | | | | | 1 | | 1 | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 1 | 2 | 5 | 5 | 1 | 4 | 4 | 1 | 0 | 0 | 2 | 1 | 3 | 2 | 0 | 4 | 0 |
| N-01 | | | | | 1 | | | 1 | | | | 1 | | 1 | | 1 | 1 | | | | | | 1 | | 1 | | |
| N-02 | | 1 | | | | | | 1 | | | | | | 1 | | 1 | | 1 | | | 1 | | 1 | 1 | | | |
| N-03 | | | | 1 | | | | | 1 | | | | 1 | 1 | | 1 | | | | | 1 | | 1 | | 1 | | |
| N-04 | | | 1 | | | | | | | 1 | 1 | 1 | | | 1 | 1 | | | | 1 | | 1 | 1 | | 1 | | |
| N-05 | 1 | 1 | | | 1 | 1 | | | 1 | | 1 | 1 | | | 1 | 1 | | | | | | | 1 | 1 | | | |
| Netherl'd | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 2 | 3 | 1 | 3 | 2 | 5 | 1 | 1 | 0 | 1 | 2 | 0 | 3 | 4 | 1 | 3 | 0 |
| Hu-1 | | | | | | 1 | | | 1 | | 1 | | | 1 | 1 | 1 | 1 | | 1 | | | | 1 | 1 | | 1 | |
| Hu-2 | | | | 1 | | | | | 1 | | | 1 | | 1 | 1 | 1 | 1 | | | | | | 1 | 1 | | 1 | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 1 | 1 | 0 | 2 | 2 | 2 | 2 | 0 | 1 | 0 | 0 | 0 | 2 | 2 | 0 | 2 | 0 |
| I-01 | | | | | 1 | | | | 1 | | | | 1 | 1 | 1 | 1 | | | | | | | 1 | 1 | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | 1 | 1 | 1 | 1 | 1 | | | | | | | 1 | 1 | | 1 | |
| I-03 | | | | 1 | | | | 1 | | | | | | 1 | | 1 | 1 | | | | | | 1 | 1 | | 1 | |
| I-04 | | 1 | | | | | | 1 | | 1 | | 1 | | 1 | 1 | 1 | 1 | 1 | | | | | 1 | 1 | | 1 | |
| I-05 | | | | | | 1 | | | | 1 | | | 1 | 1 | | 1 | 1 | | | | | | | 1 | 1 | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 0 | 2 | 3 | 5 | 3 | 5 | 3 | 1 | 0 | 0 | 0 | 0 | 4 | 5 | 1 | 3 | 0 |
| Ttl Cases | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 5 | 9 | 21 | 26 | 10 | 27 | 12 | 4 | 3 | 4 | 7 | 4 | 19 | 19 | 3 | 23 | 0 |

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to case BUT, discovered from it, relates to total enquiry.

Q 3a: Considering Decisions:

ACTORS & AGENCIES

| Country & Case No: | Development Type | | | | | | Site type | | | | Actors | | | | | | | | | | Agencies | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|--------|----|----|----|---|----|----|----|----|----|----------|----|----|----|----|----|---|
| | M | C | I | L | R | S | B | G | U | R | BO | PO | DH | PL | | LO | D | PP | 3P | PS | HA | LA | SC | OC | PC | F | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | 1 | | | | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | | 1 | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | 1 | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | | | | |
| E-03 | | | | | 1 | | | 1 | | | | 1 | | | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | | 1 | | | | 1 | | 1 | | | 1 | 1 | 1 | | | | |
| E-05 | | | | | | 1 | | | 1 | 1 | | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | | |
| E-06 | | | | 1 | | | 1 | | | | | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | 1 | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | 1 | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | 1 | | | | 1 | | 1 | | | | 1 | 1 | 1 | 1 | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 0 | 11 | 6 | 5 | 0 | 7 | 9 | 11 | 5 | 6 | 7 | 11 | 11 | 5 | 5 | 2 | 0 |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | 1 | 1 | 1 | | | 1 | 1 | | | | | 1 | 1 | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | 1 | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 2 | 2 | 2 | 1 | 0 | 2 | 2 | 1 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 1 | 0 |
| D-01 | | | | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | 1 | |
| D-02 | 1 | | | | 1 | 1 | | | | 1 | 1 | 1 | 1 | | | 1 | 1 | 1 | | | | 1 | 1 | | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 2 | 2 | 2 | 1 | 0 | 2 | 2 | 2 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 1 | 0 |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | | | 1 | 1 | | | 1 | 1 | 1 | 1 | | 1 | 1 | | | | |
| F-02 | | | | | 1 | | | 1 | | | 1 | | | 1 | | 1 | | 1 | 1 | | 1 | 1 | 1 | 1 | | 1 | |
| F-03 | | | | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | 1 | |
| F-04 | | | | 1 | | | | | | 1 | | | | 1 | | 1 | 1 | 1 | | 1 | | 1 | 1 | | | | |
| F-05 | | | | 1 | | | | | 1 | | | | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | 1 | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 2 | 1 | 3 | 5 | 0 | 4 | 4 | 5 | 2 | 2 | 1 | 5 | 5 | 1 | 0 | 3 | 0 |
| H-01 | | | | | 1 | | | 1 | | | 1 | 1 | 1 | | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | | 1 | |
| H-02 | | 1 | | | | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | | | |
| H-03 | | | | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | | 1 | 1 | | | | |
| H-04 | | | 1 | | | | | | | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | | 1 | | | 1 | 1 | 1 | 1 | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | 1 | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | 1 | 1 | 1 | | | 1 | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 5 | 4 | 4 | 3 | 0 | 5 | 5 | 4 | 2 | 1 | 3 | 5 | 5 | 3 | 1 | 2 | 0 |
| Hu-1 | | | | | | 1 | | | 1 | | | | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | 1 | |
| Hu-2 | | | | 1 | | | | | 1 | | | 1 | 1 | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | 1 | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 1 | 2 | 1 | 0 | 2 | 2 | 2 | 1 | 0 | 1 | 2 | 2 | 0 | 0 | 2 | 0 |
| I-01 | | | | | 1 | | | | 1 | | 1 | 1 | 1 | | | 1 | 1 | | | 1 | 1 | 1 | 1 | | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | | |
| I-03 | | | | 1 | | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | 1 | 1 | 1 | | | 1 | |
| I-04 | | 1 | | | | | | 1 | | 1 | 1 | 1 | 1 | 1 | | | 1 | 1 | | | 1 | 1 | 1 | | | | |
| I-05 | | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 1 | 1 | | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 5 | 3 | 4 | 2 | 0 | 4 | 5 | 4 | 1 | 3 | 3 | 5 | 5 | 0 | 0 | 1 | 0 |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 16 | 24 | 23 | 18 | 0 | 26 | 29 | 29 | 11 | 12 | 15 | 32 | 32 | 9 | 6 | 12 | 0 |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops,

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Actors BO = Building officer, PO = Planning Officer, DH = Department Head, PL = Political leader, LO = Land owner, D = Developer, PP = Private professional, 3P = 3rd Party/public, PS = Politician or Spokesman

Agencies HA = Higher Authority, LA = Local Authority, SC = Statutory Consultee, OC = Other Consultee, PC = Private Consultee, F = Financier

Note: Each case is a TOOL of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 3b & c: Considering Decisions:

ISSUES & INTERESTS

| Country & Case No: | Development Type | | | | | | Site type | | | | Issues | | | | | | | | | | Interests | | | | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|--------|----|----|----|---|----|----|---|---|----|-----------|----|----|----|----|----|----|----|---|--|
| | M | C | I | L | R | S | B | G | U | R | D | E | F | In | J | HP | LP | S | W | 3P | LC | GP | HA | PP | CI | PA | O | I | | |
| E-01 | 1 | 1 | | | | | 1 | | | | 1 | | | | | | 1 | 1 | | | | | 1 | 1 | 1 | 1 | 1 | | | |
| E-02 | 1 | 1 | | | | 1 | | 1 | | | | 1 | | 1 | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | |
| E-03 | | | | | | 1 | | 1 | | | | | | 1 | | | | | | 1 | 1 | | | | 1 | 1 | 1 | | | |
| E-04 | 1 | 1 | | | | 1 | | | | 1 | 1 | 1 | | | | | | | | | | | | | 1 | 1 | 1 | 1 | | |
| E-05 | | | | | | | | | | 1 | 1 | | | 1 | 1 | 1 | | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | |
| E-06 | | | | | 1 | | 1 | | | | 1 | | | 1 | 1 | | 1 | | | | | 1 | | 1 | 1 | 1 | 1 | | | |
| E-07 | 1 | | | | | 1 | 1 | | | 1 | | | | 1 | 1 | 1 | | | | | | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | 1 | | 1 | 1 | | | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | |
| E-09 | 1 | | | 1 | | 1 | 1 | | | | | 1 | | | | | | | | 1 | 1 | | | | 1 | 1 | 1 | | | |
| E-10 | 1 | | | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | 1 | 1 | 1 | | 1 | |
| E-11 | 1 | | | 1 | | 1 | | 1 | | | | | | 1 | | | | | | | | | | | 1 | 1 | 1 | | 1 | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 3 | 5 | 1 | 8 | 6 | 5 | 4 | 1 | 0 | 5 | 6 | 6 | 4 | 3 | 11 | 10 | 2 | 4 | | |
| C-01 | 1 | | | 1 | | | | | 1 | | 1 | | | 1 | 1 | | | | | | | | | | 1 | 1 | | | | |
| C-02 | 1 | | | | 1 | | | 1 | | | 1 | | 1 | 1 | | | | | | | | 1 | | | 1 | 1 | 1 | 1 | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 2 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 0 | 2 | 2 | 1 | 1 | | |
| D-01 | | | | | 1 | | | | 1 | | 1 | | 1 | 1 | | | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | | | |
| D-02 | 1 | | | | | 1 | 1 | | | 1 | 1 | | 1 | | | | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 2 | 0 | 2 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 2 | 2 | 2 | 2 | 0 | |
| F-01 | 1 | 1 | 1 | | | 1 | | | | 1 | | | | 1 | | | 1 | | | 1 | 1 | 1 | | | 1 | 1 | | 1 | | |
| F-02 | | | | | | 1 | | 1 | | | | | 1 | 1 | | | 1 | | 1 | | 1 | 1 | | | | 1 | 1 | 1 | | |
| F-03 | | | | | 1 | | | | 1 | | 1 | 1 | 1 | 1 | | | 1 | 1 | | | 1 | 1 | | | 1 | 1 | 1 | 1 | | |
| F-04 | | | | | | 1 | | | | 1 | 1 | | 1 | | | | 1 | | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | | |
| F-05 | | | | | | 1 | | | 1 | | 1 | | 1 | | | | | | | 1 | 1 | | | 1 | 1 | | 1 | 1 | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 3 | 1 | 3 | 4 | 0 | 0 | 4 | 1 | 1 | 3 | 5 | 4 | 0 | 1 | 4 | 4 | 1 | 5 | | |
| OH-01 | | | | | | 1 | | 1 | | | | 1 | 1 | 1 | | 1 | 1 | | | | | 1 | 1 | | 1 | | | | | |
| H-02 | | 1 | | | | | | 1 | | | | | 1 | 1 | | 1 | 1 | | | | | | 1 | 1 | 1 | 1 | 1 | | | |
| H-03 | | | | | 1 | | | | 1 | | 1 | | | | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | 1 | 1 | | | |
| H-04 | | | | 1 | | | | | | 1 | | 1 | | | | | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | | | |
| H-05 | 1 | 1 | | | | 1 | 1 | | 1 | | 1 | 1 | 1 | | | 1 | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 2 | 3 | 3 | 2 | 0 | 3 | 5 | 0 | 0 | 1 | 3 | 4 | 3 | 1 | 5 | 4 | 0 | 0 | | |
| Hu-1 | | | | | | 1 | | | 1 | | 1 | 1 | 1 | 1 | | | | | | 1 | 1 | 1 | | | 1 | 1 | 1 | 1 | | |
| Hu-2 | | | | | 1 | | | | 1 | | 1 | | 1 | 1 | | | 1 | 1 | | 1 | | 1 | 1 | | 1 | 1 | | | | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 2 | 1 | 2 | 2 | 0 | 1 | 1 | 0 | 0 | 2 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 1 | | |
| I-01 | | | | | | 1 | | | 1 | | | | | | | | 1 | 1 | | | | 1 | 1 | | 1 | | | | | |
| I-02 | 1 | 1 | | | | | 1 | | | | 1 | 1 | | 1 | | | | 1 | | | 1 | 1 | 1 | | 1 | 1 | 1 | | | |
| I-03 | | | | | 1 | | | | 1 | | | | | 1 | | | 1 | 1 | | | | 1 | 1 | | 1 | 1 | 1 | | | |
| I-04 | | 1 | | | | | | | 1 | | 1 | | | 1 | 1 | 1 | 1 | | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | |
| I-05 | | | | | | 1 | | | | 1 | | | | 1 | | | 1 | | | | 1 | | | | 1 | 1 | 1 | 1 | 1 | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 1 | 1 | 0 | 4 | 1 | 3 | 5 | 0 | 1 | 0 | 3 | 4 | 4 | 1 | 5 | 4 | 3 | 2 | | |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 15 | 11 | 12 | 23 | 8 | 12 | 21 | 2 | 2 | 11 | 20 | 23 | 12 | 6 | 31 | 28 | 10 | 13 | | |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev. Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops.

Site type B = Brown field, G = Green field, U = Urban, R = Redevelopment

Issues D = Design, E = Environment, F = Finance, In = Infrastructure, J = Jobs,

HP = Higher policy, LP = Lower policy, S = Social, W = Welfare

Interests 3P = 3rd Party, LC = Local community, GP = General Public & City, HA = Higher Authority, PP = Party Political, CI = Commercial, PA = Professional Advisors, O = Officers / Officials, I = Individual

Note: Each case is a TOOL of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 3d + e: Considering Decisions:

PROCESSES & PRACTICES

| Country & Case No: | Development Type | | | | | | Site type | | | | Idealised plan type | | | | | | | | | | Use of information | | | | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|---------------------|----|----|---|---|---|---|---|---|---|--------------------|----|----|---|----|----|----|---|---|---|
| | M | C | I | L | R | S | B | G | U | R | 1 | 2 | 3 | | | | | | | | IF | C | TC | | IQ | BC | PG | | | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | 1 | 1 | | | | | | | | | 1 | | | 1 | 1 | | | | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | | 1 | 1 | | | | | | | | 1 | | | | | 1 | | | |
| E-03 | | | | | 1 | | | | 1 | | | | | 1 | | | | | | | | 1 | 1 | | | | 1 | | | |
| E-04 | 1 | 1 | | | | 1 | | | | 1 | | | 1 | | | | | | | | | 1 | 1 | | 1 | | | | | |
| E-05 | | | | | | 1 | | | | 1 | 1 | | 1 | | | | | | | | | 1 | 1 | | | | | | | |
| E-06 | | | | 1 | | | 1 | | | | | | 1 | 1 | | | | | | | | 1 | 1 | | 1 | 1 | | | | |
| E-07 | 1 | | | | 1 | 1 | | | | | 1 | | | 1 | | | | | | | | 1 | | | 1 | 1 | | | | |
| E-08 | 1 | 1 | 1 | | | | | | 1 | | | | 1 | 1 | | | | | | | | 1 | 1 | | | 1 | 1 | | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | | | | 1 | | | | | | | | 1 | | | | 1 | 1 | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | | 1 | 1 | | | 1 | | | | | | | | 1 | | | 1 | 1 | 1 | | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | | | 1 | | | | | | | | 1 | | | 1 | 1 | | | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 0 | 6 | 9 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 11 | 5 | 0 | 5 | 7 | 6 | 0 | 0 | |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | | | 1 | | | | | | | | | 1 | 1 | | | | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | | | 1 | | | | | | | | | 1 | 1 | | | 1 | 1 | | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 1 | 1 | 0 | 0 | |
| D-01 | | | | 1 | | | | | | 1 | | | 1 | 1 | | | | | | | | 1 | 1 | | | 1 | | | | |
| D-02 | 1 | | | | 1 | 1 | | | | | 1 | | | 1 | | | | | | | | 1 | 1 | | | 1 | 1 | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 0 | 2 | 1 | 0 | 0 | |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | | 1 | 1 | | | | | | | | | | 1 | | | 1 | | | | |
| F-02 | | | | | 1 | | | | 1 | | | | 1 | 1 | | | | | | | | | 1 | | | 1 | | | | |
| F-03 | | | | 1 | | | | | | 1 | | | 1 | 1 | | | | | | | | | 1 | | | 1 | | | | |
| F-04 | | | | | 1 | | | | | | 1 | 1 | 1 | 1 | | | | | | | | | 1 | | | 1 | | | | |
| F-05 | | | | | 1 | | | | | 1 | | | 1 | 1 | | | | | | | | 1 | | | 1 | | | | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 1 | 5 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 1 | 4 | 0 | 0 | 5 | 0 | 0 | 0 | |
| H-01 | | | | | 1 | | | | 1 | | | | 1 | 1 | | | | | | | | | 1 | | | | | | | |
| H-02 | | 1 | | | | | | | 1 | | | | | 1 | | | | | | | | 1 | 1 | | | | 1 | | | |
| H-03 | | | | 1 | | | | | | 1 | | | 1 | 1 | | | | | | | | 1 | 1 | | | | | | | |
| H-04 | | | 1 | | | | | | | | 1 | 1 | | | | | | | | | | | 1 | | | | | | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | | 1 | | 1 | 1 | | | | | | | | | 1 | 1 | | | 1 | | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 2 | 3 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 3 | 5 | 0 | 0 | 1 | 1 | 0 | 0 | |
| Hu-1 | | | | | | 1 | | | | 1 | | | 1 | | | | | | | | | 1 | 1 | | 1 | 1 | 1 | | | |
| Hu-2 | | | | 1 | | | | | | 1 | | | 1 | 1 | | | | | | | | 1 | 1 | | | 1 | 1 | | | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 1 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 2 | 0 | 1 | 2 | 2 | 0 | 0 | |
| I-01 | | | | | 1 | | | | | 1 | | | 1 | 1 | | | | | | | | 1 | | | | 1 | 1 | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | | 1 | 1 | | | | | | | | | 1 | | | 1 | 1 | | | |
| I-03 | | | | 1 | | | | | 1 | | | | 1 | 1 | | | | | | | | 1 | | | | 1 | 1 | | | |
| I-04 | | 1 | | | | | | | 1 | | | | 1 | 1 | | | | | | | | | 1 | | | 1 | 1 | | | |
| I-05 | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | | | 1 | | | | | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 0 | 4 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 4 | 0 | 0 | 3 | 4 | 0 | 0 |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 4 | 20 | 28 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 2 | 21 | 24 | 0 | 6 | 21 | 15 | 0 | 0 | |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev. Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops,

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Plan type 1 = Plan Driven, 2 = Policy driven, 3 = Negotiation driven

Info use IF = Ignored and filed, C = Consultations, TC = Technical conformance, IQ = Improve development quality,

BC = Bargaining counter, PG = Play the Game

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 4a & b: Considering Decisions:

Purposes of 'rules'

| Country & Case No: | Development Type | | | | | | Site type | | | | Purpose of 'rules' | | | | | | | | Alternative purposes used for | | | | | | | | | | | | |
|--------------------|------------------|---|---|---|----|----|-----------|----|----|----|--------------------|---|---|---|----|---|---|---|-------------------------------|---|----|----|----|----|----|---|---|---|---|---|---|
| | M | C | I | L | R | S | B | G | U | R | H | S | E | C | N | | | | | | SP | PI | SD | I | PP | | | | | | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | | | 1 | | | | | | 1 | | | 1 | | | | | | | | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | | | 1 | 1 | | | | | 1 | | | 1 | 1 | | | | | | | |
| E-03 | | | | | 1 | | | 1 | | | | | | | 1 | | | | | | | | | | | | | | | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | | | | | | 1 | | | | | | | 1 | | | | | | | | |
| E-05 | | | | | | 1 | | | | 1 | 1 | | | | | 1 | | | | | | | 1 | | | | | | | | |
| E-06 | | | | 1 | | | 1 | | | | | | | | | 1 | | | | 1 | | | 1 | 1 | | | | | | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | | | | | 1 | | | | 1 | | | 1 | 1 | | | | | | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | | | | | 1 | | | | | | 1 | | | | | | | | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | | | 1 | | | | | | | | | | | | 1 | | | | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | | 1 | 1 | | | | | 1 | | | | | 1 | 1 | 1 | 1 | | | | | | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | | | | | 1 | | | | | | | | | | | | | | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 0 | 0 | 2 | 3 | 7 | 0 | 0 | 0 | 0 | 0 | 5 | 1 | 2 | 7 | 4 | 0 | 0 | 0 | 0 | 0 | 0 |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | | | | | | 1 | | | | | 1 | | 1 | 1 | | | | | | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D-01 | | | | 1 | | | | | | 1 | | | | | | 1 | | | | | 1 | | 1 | 1 | | | | | | | |
| D-02 | 1 | | | | 1 | 1 | | | | | 1 | | | | | 1 | | | | | | | | 1 | | | | | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 1 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | | | | | | 1 | | | | | 1 | 1 | 1 | 1 | | | | | | | |
| F-02 | | | | | 1 | | | 1 | | | | | | 1 | | | | | | | 1 | 1 | 1 | 1 | | | | | | | |
| F-03 | | | | 1 | | | | | 1 | | | | | | | 1 | | | | | 1 | | 1 | 1 | | | | | | | |
| F-04 | | | | | 1 | | | | | 1 | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | |
| F-05 | | | | | 1 | | | | 1 | | | | | | | 1 | | | | | | | 1 | 1 | | | | | | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 0 | 0 | 0 | 2 | 3 | 0 | 0 | 0 | 0 | 0 | 4 | 2 | 4 | 5 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| H-01 | | | | | 1 | | | 1 | | | | | | | | 1 | | | | | 1 | | 1 | | | | | | | | |
| H-02 | | 1 | | | | | | 1 | | | | | | | | 1 | | | | | 1 | | 1 | | | | | | | | |
| H-03 | | | | 1 | | | | | 1 | | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | |
| H-04 | | | 1 | | | | | | | 1 | 1 | 1 | 1 | | | | | | | | 1 | | | | | | | | | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | 1 | | | | | | | 1 | | | | | 1 | 1 | | 1 | | | | | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 1 | 1 | 1 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 5 | 1 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hu-1 | | | | | | 1 | | | 1 | | | | | | | 1 | | | | | | | 1 | 1 | | | | | | | |
| Hu-2 | | | | 1 | | | | | 1 | | | | | | | 1 | | | | | 1 | | 1 | 1 | | | | | | | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 1 | 0 | 2 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| I-01 | | | | | 1 | | | | 1 | | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | |
| I-03 | | | | 1 | | | | 1 | | | | | | | | 1 | | | | | 1 | | | 1 | | | | | | | |
| I-04 | | 1 | | | | | | 1 | | | 1 | 1 | 1 | | | | | | | | | | | | | | | | | | |
| I-05 | | | | | | 1 | | | | 1 | | | | | | 1 | | | | | | | | | | | | | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 1 | 1 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 4 | 0 | 0 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 2 | 2 | 3 | 5 | 24 | 0 | 0 | 0 | 0 | 0 | 22 | 4 | 12 | 23 | 4 | 0 | 0 | 0 | 0 | 0 | 0 |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops,

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Purpose H = Health, S = Safety, E = Environment, C = Urban control, N = Not apparent

Alternate SP = Support other policies, PI = Protect Investments of city, SD = Support Deals of city,

I = Image, PP = Promote Party

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 4c & d Considering Decisions:

Influences on decisions and 'rules'

| Country & Case No: | Development Type | | | | | | Site type | | | | Influences on decisions | | | | | | | | Coercion of 'rules' | | | | | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|-------------------------|----|---|----|----|----|---|----|---------------------|--|----|---|----|----|----|----|---|---|---|
| | M | C | I | L | R | S | B | G | U | R | W | P | C | PG | F | E | B | M | | | SE | W | FI | WI | U | I | | | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | 1 | | 1 | | | | 1 | | | | | 1 | | | | | | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | | | 1 | | 1 | | 1 | | | 1 | | | | | | | | |
| E-03 | | | | | 1 | | | | 1 | | | | 1 | | | | 1 | 1 | | | | | 1 | | | | | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | 1 | 1 | | | | | | | | | 1 | | | | | | | | |
| E-05 | | | | | | 1 | | | 1 | 1 | | 1 | | 1 | | 1 | | 1 | | | | | 1 | | | 1 | | | |
| E-06 | | | | 1 | | | 1 | | | | 1 | 1 | | 1 | 1 | 1 | | 1 | | | | | 1 | | | 1 | | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | | | 1 | | | 1 | | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | | | | | 1 | 1 | | | | | | 1 | | | 1 | | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | | 1 | | | | | | | | | | | 1 | | | 1 | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | | 1 | | | | | 1 | | | 1 | | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | 1 | 1 | | | | | | | | | | | 1 | | | | | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 3 | 10 | 2 | 6 | 3 | 7 | 0 | 9 | 0 | | 2 | 0 | 9 | 0 | 0 | 7 | 0 | 0 | 0 |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | | | | | | 1 | | | | | | | 1 | | | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | 1 | 1 | | | 1 | 1 | | | | | | | 1 | | 1 | 1 | | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 1 | 1 | 0 | 0 | 1 | 2 | 0 | 0 | 0 | | 0 | 0 | 2 | 0 | 1 | 1 | 0 | 0 | 0 |
| D-01 | | | | 1 | | | | | 1 | | | 1 | | | | 1 | | 1 | | | | | 1 | 1 | 1 | | | | |
| D-02 | 1 | | | | 1 | 1 | | | | 1 | | 1 | | | | 1 | | 1 | | | | | 1 | | | 1 | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 2 | 0 | | 0 | 0 | 2 | 1 | 1 | 1 | 0 | 0 | 0 |
| F-01 | 1 | 1 | 1 | | 1 | | | | 1 | | | | | 1 | 1 | 1 | | 1 | | | | | 1 | | 1 | | | | |
| F-02 | | | | | 1 | | | 1 | | | | 1 | | | 1 | 1 | | | | | | | 1 | | 1 | | | | |
| F-03 | | | | 1 | | | | | 1 | | | 1 | | | | 1 | | | | | | | 1 | 1 | 1 | | | | |
| F-04 | | | | 1 | | | | | 1 | | | 1 | | | | 1 | 1 | | | | | | 1 | | | | | | |
| F-05 | | | | 1 | | | | | 1 | | | 1 | | | | 1 | 1 | | | | | | 1 | | 1 | | | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 0 | 4 | 0 | 1 | 4 | 5 | 0 | 1 | 0 | | 0 | 0 | 5 | 1 | 4 | 0 | 0 | 0 | 0 |
| H-01 | | | | | 1 | | | 1 | | | | 1 | | | | 1 | | | | | | 1 | | | | | | | |
| H-02 | | 1 | | | | | | 1 | | | | 1 | | | 1 | 1 | | | | | | | | 1 | 1 | | | | |
| H-03 | | | | 1 | | | | | 1 | | | | | | | 1 | | 1 | | | | | 1 | | | | | | |
| H-04 | | | 1 | | | | | | | 1 | | | | | | | | 1 | | | | 1 | | | 1 | | | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | 1 | | | 1 | | | | 1 | | | | | | 1 | | | | | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 0 | 3 | 0 | 0 | 1 | 4 | 0 | 2 | 0 | | 1 | 2 | 1 | 1 | 2 | 0 | 0 | 0 | 0 |
| Hu-1 | | | | | | 1 | | | 1 | | 1 | 1 | | | 1 | 1 | | | | | | | 1 | 1 | 1 | | | | |
| Hu-2 | | | | 1 | | | | | 1 | | 1 | 1 | | | | 1 | 1 | | 1 | | | | 1 | | | | | | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 2 | 2 | 0 | 0 | 2 | 2 | 0 | 1 | 0 | | 0 | 0 | 2 | 1 | 1 | 0 | 0 | 0 | 0 |
| I-01 | | | | | 1 | | | | 1 | | | | | 1 | | 1 | | 1 | | | | | | 1 | | | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | 1 | | 1 | | 1 | | 1 | | | | 1 | | | 1 | 1 | | | |
| I-03 | | | | 1 | | | | 1 | | | | | | | | 1 | | 1 | | | | | 1 | | | 1 | | | |
| I-04 | | 1 | | | | | | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | 1 | | | | | 1 | | 1 | 1 | | | | |
| I-05 | | | | | 1 | | | | 1 | | | | | | | 1 | | | | | | | 1 | | | | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 1 | 2 | 0 | 3 | 1 | 5 | 1 | 3 | 0 | | 0 | 2 | 2 | 2 | 2 | 2 | 0 | 0 | 0 |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 7 | 24 | 2 | 10 | 12 | 27 | 1 | 18 | 0 | | 3 | 4 | 23 | 6 | 11 | 11 | 0 | 0 | 0 |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev. Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops,

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Influence W = Work, P = Profit, CB = Community benefit, PG = Political game, F = Favours, E = Elite, B = Bribes
M = MediaCoercion SE = Strictly enforced, WE = Weakly enforced, FI = Freely interpreted, WI = Wrongly interpreted,
UW = Used wrongly, I = Ignored,**Note:** Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 4e & f Considering Decisions: **Winners and Losers**

| Country & Case No: | Development Type | | | | | | Site type | | | | Who or what wins | | | | | | | | | | Who or what loses | | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|------------------|----|----|----|----|----|----|----|---|----|-------------------|----|---|----|----|---|---|---|
| | M | C | I | L | R | S | B | G | U | R | LC | C | HL | P | PP | LO | D | PA | | E | F | C | C | LO | R | P | B | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | 1 | 1 | | 1 | 1 | | 1 | | | 1 | | 1 | | | | 1 | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | | 1 | 1 | 1 | 1 | | 1 | | | | 1 | | 1 | | | 1 | |
| E-03 | | | | | 1 | | | 1 | | | | 1 | | 1 | | 1 | 1 | 1 | | | 1 | | 1 | | 1 | | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | | | 1 | | 1 | | 1 | 1 | | | 1 | 1 | 1 | 1 | 1 | | 1 | |
| E-05 | | | | | | 1 | | | 1 | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | | | 1 | | 1 | | | | | |
| E-06 | | | | 1 | | | 1 | | | | | 1 | | | 1 | 1 | 1 | 1 | | | | | | | 1 | | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | | 1 | | | 1 | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | | | | | 1 | 1 | 1 | | | | | | | 1 | | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | 1 | 1 | | 1 | | 1 | 1 | 1 | | | | | | | | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | 1 | 1 | | 1 | 1 | 1 | 1 | 1 | 1 | 1 | | | 1 | | 1 | | | | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | | | | | 1 | | 1 | | | 1 | | 1 | | | 1 | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 2 | 6 | 5 | 6 | 4 | 9 | 7 | 10 | 0 | 6 | 3 | 6 | 4 | 2 | 7 | 0 | 3 | 0 |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | 1 | 1 | | | | 1 | 1 | 1 | | | | | | | 1 | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | | 1 | 1 | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | 1 | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 1 | 2 | 1 | 1 | 0 | 2 | 2 | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 1 | 0 | 0 |
| D-01 | | | | 1 | | | | | 1 | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | | | |
| D-02 | 1 | | | | 1 | 1 | | | | 1 | 1 | 1 | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 1 | 2 | 0 | 2 | 0 | 2 | 2 | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 0 |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | | | | 1 | | | 1 | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | | |
| F-02 | | | | | 1 | | | 1 | | | | 1 | | 1 | | 1 | | 1 | | 1 | | 1 | | | 1 | | | |
| F-03 | | | | 1 | | | | | 1 | | 1 | 1 | | 1 | | 1 | 1 | 1 | | | | | | | 1 | | | |
| F-04 | | | | | 1 | | | | | 1 | | 1 | | 1 | | 1 | 1 | 1 | | | | 1 | | 1 | 1 | | | |
| F-05 | | | | | 1 | | | | 1 | | | | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | 1 | 1 | | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 1 | 3 | 0 | 5 | 0 | 4 | 4 | 5 | 0 | 3 | 1 | 4 | 0 | 2 | 5 | 1 | 0 | 0 |
| H-01 | | | | | 1 | | | 1 | | | | 1 | | | | | | | | | | 1 | | | 1 | | | |
| H-02 | | 1 | | | | | | 1 | | | | 1 | | | | 1 | 1 | 1 | | | | | | | 1 | | | |
| H-03 | | | | 1 | | | | | 1 | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | | | |
| H-04 | | | 1 | | | | | | | 1 | | 1 | | | | 1 | 1 | 1 | | | | 1 | | | 1 | 1 | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | 1 | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | | | 1 | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 0 | 5 | 0 | 2 | 0 | 4 | 4 | 4 | 0 | 2 | 1 | 4 | 0 | 0 | 5 | 1 | 0 | 0 |
| Hu-1 | | | | | | 1 | | | 1 | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | | | |
| Hu-2 | | | | 1 | | | | | 1 | | | 1 | 1 | | | 1 | | 1 | | 1 | | | | | 1 | | 1 | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 2 | 1 | 1 | 0 | 2 | 1 | 2 | 0 | 2 | 0 | 1 | 0 | 0 | 2 | 0 | 1 | 0 |
| I-01 | | | | | 1 | | | | 1 | | | | 1 | 1 | | 1 | 1 | 1 | | 1 | | 1 | 1 | | 1 | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | 1 | | | | 1 | 1 | 1 | | | | | | | 1 | | | |
| I-03 | | | | 1 | | | | 1 | | | | 1 | 1 | | | 1 | 1 | 1 | | | | 1 | | | 1 | | | |
| I-04 | | 1 | | | | | | 1 | | 1 | | 1 | 1 | 1 | | 1 | 1 | 1 | | | | 1 | | | 1 | 1 | | |
| I-05 | | | | | | 1 | | | | 1 | | | | | | 1 | 1 | 1 | | 1 | | 1 | | | 1 | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 0 | 3 | 3 | 2 | 0 | 5 | 5 | 5 | 0 | 2 | 0 | 4 | 1 | 0 | 5 | 1 | 0 | 0 |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 5 | 23 | 10 | 19 | 4 | 28 | 25 | 30 | 0 | 17 | 5 | 21 | 5 | 4 | 28 | 4 | 4 | 0 |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev. Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops.

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Winners LC = Local Community, C = City, HL = Higher level area, P = Politicians, P = Politicians, PP = Political parties, LO = land Owners, DC = Developers and Contractors, PA = Professional advisors

Losers E = Environment, F = Finances of city, CA = Community amenities, C = City, LO = Land owners, R = 'Rules', P = Politics, B = Business

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 5a Considering Decisions:

Influences on decisions 'A'

| Country & Case No: | Development Type | | | | | | Site type | | | | Politics | | | | Culture | | | | Finances | | | | Economic factors | | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|----------|---|---|---|---------|---|---|----|----------|---|----|---|------------------|---|----|---|---|---|--|--|
| | M | C | I | L | R | S | B | G | U | R | S | M | L | U | S | M | L | U | S | M | L | U | S | M | L | U | | | | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | | 1 | | | | 1 | | | | 1 | | | | 1 | | | | | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | | | 1 | | | | | 1 | 1 | | | | 1 | | | | | | |
| E-03 | | | | | 1 | | | 1 | | | 1 | | | | | | | | 1 | | | 1 | | | | | 1 | | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | 1 | | | | | | 1 | | | | | 1 | | | 1 | | | | | |
| E-05 | | | | | | 1 | | | 1 | 1 | 1 | | | | 1 | | | | | | 1 | | | | | 1 | | | | |
| E-06 | | | | 1 | | | 1 | | | | 1 | | | | 1 | | | | | | 1 | | | | 1 | | | | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | | 1 | | | 1 | | | | | 1 | | | | 1 | | 1 | | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | 1 | | | | | | | 1 | | | 1 | | | | 1 | | | | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | 1 | | | | | | | 1 | | | | 1 | | | | 1 | | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | 1 | 1 | 1 | | | | | | | 1 | | | | 1 | | | | 1 | | | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | | | 1 | | | | 1 | | | | 1 | | | | | 1 | | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 7 | 0 | 3 | 1 | 2 | 2 | 0 | 7 | 1 | 0 | 6 | 4 | 1 | 3 | 4 | 3 | 0 | 0 | | |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | 1 | | | | 1 | | | | | | 1 | | | | 1 | | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | 1 | | | | | | | 1 | 1 | | | | | 1 | | | | | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 0 | 1 | 1 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | | |
| D-01 | | | | 1 | | | | | 1 | | 1 | | | | | | | 1 | | | 1 | | | | 1 | | | | | |
| D-02 | 1 | | | | 1 | 1 | | | | 1 | | | | 1 | | | | 1 | | | 1 | | | | 1 | | | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 2 | 0 | 1 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | | |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | 1 | | | | | | 1 | | | 1 | | | | | 1 | | | | | |
| F-02 | | | | | 1 | | | 1 | | | | | | 1 | | | | 1 | | | 1 | | | | | 1 | | | | |
| F-03 | | | | 1 | | | | | 1 | | | | 1 | | | | | 1 | | | 1 | | | | 1 | | | | | |
| F-04 | | | | | 1 | | | | | 1 | | 1 | | | | | | 1 | | | | 1 | | | | 1 | | | | |
| F-05 | | | | | 1 | | | | 1 | | 1 | | | | | | 1 | | | 1 | | | | | 1 | | | | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 1 | 2 | 1 | 1 | 0 | 1 | 4 | 0 | 0 | 2 | 2 | 1 | 0 | 0 | 3 | 2 | 0 | 0 | | |
| H-01 | | | | | 1 | | | 1 | | | | | | 1 | | 1 | | | | | 1 | | | | 1 | | | | | |
| H-02 | | 1 | | | | | | 1 | | | 1 | | | | | 1 | | | | 1 | | | | | 1 | | | | | |
| H-03 | | | | 1 | | | | | 1 | | | | | 1 | 1 | | | | | | 1 | | | 1 | | | | | | |
| H-04 | | | 1 | | | | | | | 1 | 1 | | | | | | 1 | | | 1 | | | | 1 | | | | | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | 1 | | 1 | | | | | | 1 | | | | 1 | | | | 1 | | | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 3 | 0 | 0 | 2 | 1 | 4 | 0 | 0 | 0 | 2 | 3 | 0 | 2 | 1 | 2 | 0 | 0 | 0 | | |
| Hu-1 | | | | | | 1 | | | 1 | | | | 1 | | | | | 1 | | | 1 | | | | 1 | | | | | |
| Hu-2 | | | | 1 | | | | | 1 | | 1 | | | | | | | 1 | | | 1 | | | | 1 | | | | | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 1 | 0 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | | |
| I-01 | | | | | 1 | | | | 1 | | | | 1 | | | | 1 | | | | 1 | | | | | 1 | | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | | 1 | | | | 1 | | | | 1 | | | | 1 | | | | | |
| I-03 | | | | 1 | | | | 1 | | | | 1 | | | | | 1 | | | | 1 | | | 1 | | | | | | |
| I-04 | | 1 | | | | | | 1 | | 1 | 1 | | | | | | 1 | | | | 1 | | | | | 1 | | | | |
| I-05 | | | | | 1 | | | | | 1 | 1 | | | | | | 1 | | | | 1 | | | | 1 | | | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 2 | 1 | 2 | 0 | 0 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 1 | 0 | 2 | 2 | 0 | 0 | | |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 17 | 3 | 7 | 5 | 4 | 8 | 8 | 12 | 2 | 6 | 17 | 7 | 5 | 6 | 14 | 7 | 0 | 0 | | |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev. Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops.

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Politics S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Culture S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Finance S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Economic S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 5b Considering Decisions:

Influences on decisions 'B'

| Country & Case No: | Development Type | | | | | | Site type | | | | Dev. type | | | | Supply/Dem'd | | | | Other m'kt | | | | | | | | | | |
|-----------------------|------------------|---|---|---|----|----|-----------|----|----|----|-----------|---|----|---|--------------|---|----|---|------------|---|---|----|---|---|---|---|---|---|---|
| | M | C | I | L | R | S | B | G | U | R | S | M | L | U | S | M | L | U | S | M | L | U | | | | | | | |
| E-01 | 1 | 1 | | 1 | | | 1 | | | | | | 1 | | 1 | | | | 1 | | | | | | | | | | |
| E-02 | 1 | 1 | | | 1 | | | 1 | | | | 1 | | | 1 | | | | 1 | | | | | | | | | | |
| E-03 | | | | | 1 | | | 1 | | | | 1 | | | | | 1 | | 1 | | | | | | | | | | |
| E-04 | 1 | 1 | | | 1 | 1 | | | | 1 | | 1 | | | 1 | | | | | | | | 1 | | | | | | |
| E-05 | | | | | | 1 | | | | 1 | 1 | | | 1 | | | | 1 | | 1 | | | | | | | | | |
| E-06 | | | | 1 | | | 1 | | | | | | 1 | | 1 | | | | | | | | 1 | | | | | | |
| E-07 | 1 | | | | 1 | 1 | | | | 1 | | | 1 | | | | | 1 | | | | | 1 | | | | | | |
| E-08 | 1 | 1 | 1 | | | | | 1 | | | | 1 | | | 1 | | | | | 1 | | | | | | | | | |
| E-09 | 1 | | 1 | | 1 | | 1 | | | | 1 | | | | | 1 | | | | 1 | | | | | | | | | |
| E-10 | 1 | | 1 | | 1 | 1 | | | | 1 | 1 | | 1 | | | | | 1 | | | | | 1 | | | | | | |
| E-11 | 1 | | 1 | | 1 | | | 1 | | | | 1 | | | | | | 1 | | | | | 1 | | | | | | |
| England | 8 | 4 | 4 | 2 | 7 | 4 | 3 | 4 | 2 | 4 | 1 | 5 | 5 | 0 | 4 | 2 | 3 | 2 | 3 | 3 | 1 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| C-01 | 1 | | 1 | | | 1 | | | 1 | | 1 | | | | | | 1 | | | | | | 1 | | | | | | |
| C-02 | 1 | | | 1 | | 1 | | 1 | | | 1 | | | | 1 | | | | 1 | | | | | | | | | | |
| Czechia | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 1 | 1 | 0 | 2 | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 1 | 0 | 0 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| D-01 | | | | 1 | | | | | 1 | | | | 1 | | | | 1 | | | | | | 1 | | | | | | |
| D-02 | 1 | | | | 1 | 1 | | | | 1 | | | 1 | | | 1 | | | | | | | 1 | | | | | | |
| Germany | 1 | 0 | 0 | 1 | 1 | 1 | 0 | 0 | 1 | 1 | 0 | 0 | 2 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| F-01 | 1 | 1 | 1 | | 1 | | | | | 1 | | | 1 | | | 1 | | | | | | | 1 | | | | | | |
| F-02 | | | | | 1 | | | | 1 | | | 1 | | | | 1 | | | 1 | | | | | | | | | | |
| F-03 | | | | 1 | | | | | | 1 | | | 1 | | | 1 | | | | | | | 1 | | | | | | |
| F-04 | | | | | 1 | | | | | 1 | | | 1 | | | 1 | | | | | | | 1 | | | | | | |
| F-05 | | | | | 1 | | | | 1 | | | | 1 | | | | | 1 | | | | | 1 | | | | | | |
| France | 1 | 1 | 1 | 1 | 4 | 0 | 0 | 1 | 2 | 2 | 0 | 1 | 4 | 0 | 2 | 2 | 0 | 1 | 1 | 0 | 0 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| H-01 | | | | | 1 | | | 1 | | | | | 1 | | | 1 | | | | | | | 1 | | | | | | |
| H-02 | | 1 | | | | | | 1 | | | | 1 | | | | | 1 | | | | | | 1 | | | | | | |
| H-03 | | | | 1 | | | | | 1 | | | | 1 | | | 1 | | | | 1 | | | | | | | | | |
| H-04 | | | 1 | | | | | | | 1 | | | 1 | | 1 | | | | | | | | 1 | | | | | | |
| H-05 | 1 | 1 | | | 1 | 1 | | | 1 | | | | 1 | | | | | 1 | | | | 1 | | | | | | | |
| Holland | 1 | 2 | 1 | 1 | 2 | 1 | 0 | 2 | 2 | 1 | 0 | 1 | 4 | 0 | 1 | 2 | 1 | 1 | 0 | 1 | 1 | 3 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| Hu-1 | | | | | | 1 | | | 1 | | | | 1 | | | | 1 | | | | | | 1 | | | | | | |
| Hu-2 | | | | 1 | | | | | 1 | | | | 1 | | | | 1 | | | | | 1 | | | | | | | |
| Hungary | 0 | 0 | 0 | 1 | 0 | 1 | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 2 | 0 | 0 | 0 | 1 | 1 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| I-01 | | | | | 1 | | | | 1 | | | | 1 | | | | 1 | | | | | | 1 | | | | | | |
| I-02 | 1 | 1 | | | | 1 | 1 | | | | | | 1 | | | | 1 | | | | | | 1 | | | | | | |
| I-03 | | | | 1 | | | | | 1 | | | | 1 | | | | | 1 | | | | | | | | | | | |
| I-04 | | 1 | | | | | | | 1 | | | | 1 | | | | 1 | | | | | | 1 | | | | | | |
| I-05 | | | | | | 1 | | | | 1 | | | | 1 | | 1 | | | | | | | 1 | | | | | | |
| Italy | 1 | 2 | 0 | 1 | 1 | 2 | 1 | 2 | 1 | 2 | 0 | 0 | 4 | 1 | 0 | 2 | 2 | 1 | 0 | 0 | 1 | 4 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |
| TOTALS | 14 | 9 | 7 | 8 | 15 | 11 | 4 | 10 | 11 | 10 | 3 | 7 | 21 | 1 | 8 | 9 | 10 | 5 | 5 | 4 | 4 | 19 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev. Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops.

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Dev. Type S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

S & D S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Other Mkt S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case BUT, discovered from it, relates to the total enquiry

Q 5c Considering Decisions:

Roles in decisions 'C'

| Country & Case No: | Development Type | | | | | | Site type | | | | Actors | | | | Type of Power | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | | |
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Legend:

Country E = England, C = Czech Republic, D = Germany, F = France, H = Holland, Hu = Hungary, I = Italy

Dev Type M = Mixed, C = Commercial, I = Industrial, L = Leisure, R = Residential, S = Shops.

Site Type B = Brown field, G = Green field, U = Urban site, R = Redevelopment

Actors S = Small or non existent, M = Medium influence, L = Large influence, U = Unknown influence

Powers F = Financial, P = Position, C = Coercive, I = Influential

Note: Each case is a *TOOL* of investigation. Information coming from case enquiries may not necessarily relate to a case *BUT*, discovered from it, relates to the total enquiry

Issues raised by interests in permit decisions, ranked by dependence

The Table below is used to help assess, as a whole, the circumstances which give rise to the new practices observed by the research and how, collectively, they have evolved as interdependent cause and effect relationships. It which lists numerous issues associated with interests in application and permit decisions found by this research. Although there is no strict order of dependence and cross relationships may exist between many of these at all levels, ranked in one possible perceived order the table suggests a causal sequence, linked to the independent variable column, which is consonant with the overall behaviour and practices observed through the research. The table should be read from left to right with downward continuation. Discussion of this is provided in 17.4.3.

| Independent | Dependent | Sub-dependent |
|--------------------------------------|---------------------------------------|-------------------------------------|
| Interests in family / public opinion | Visible & direct disadvantage | Associating information, secrecy |
| Deals | Networks & informal systems | Protection, concealment, secrecy |
| Psychology (personal importance) | City growth | Interest in property development |
| Interests of senior LA personnel | Image, economy | City marketing |
| Competition with other cities | Political interests, city cooperation | Flexibility, opportunity, developer |
| Obsolescence & dating | Monitoring | Information systems, staff, image |
| Taxation | Land coming forward | Demand for sites |
| Market opportunity | Timing, location, infrastructure | Permit decision, planning, finance |
| Investment in Companies | Commercial direction | Creation of projects |
| Raising of finance (borrowing) | Quality of development permit | Land value information |
| Fuse Gov't & Developer interests | Potential development idea | Deals, protection, concealment |
| Negotiation | Profit levels | Benefit levels & distribution |
| Agreements, favours, patronage | Project & design freedom | Suppress objections, control media |
| Financial demands | Utilitarian architecture | Design capability & capacity |
| Custom & culture (public interest) | Planning & design (image) | Implementation departures -image |

Issues raised by interests in permit decisions, ranked by dependence

Without discussing this in detail, further analysis of the independent column suggests that 4 key factors may drive applications, permit decision and subsequent development; personal interests, physical conditions, financial investment, and personality. Here it is considered that the last of these may be the most dominant. However, this is also an area outwith the scope of this thesis and, apart from noting it as worthy of future investigation, it is inappropriate to discuss this further..

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